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WATER RESOURCES PLANNING ACT AMENDMENTS

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96-1

HEARING

BEFORE THE

SUBCOMMITTEE ON CONSERVATION AND CREDIT

OF THE

COMMITTEE ON AGRICULTURE HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

H.R. 2610

JUNE 14, 1979

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WATER RESOURCES PLANNING ACT AMENDMENTS

THURSDAY, JUNE 14, 1979

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CONSERVATION AND CREDIT
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to notice at 10:15 a.m., in room 1301, Longworth House Office Building, Hon. Ed Jones of Tennessee (chairman of the subcommittee) presiding.

Present: Representatives Harkin, Glickman, Hance, Baldus, Bedell, Panetta, Daschle, Madigan, and Hopkins.

Staff present: Fowler C. West, staff director; Robert M. Bor, chief counsel; J. Robert Franks, associate counsel; Eleanor S. Walsh, clerk; Nick Ashmore; Bernard Brenner; Robert Cashdollar; Gary Norton; Thomas Adams; Wayne Fletcher; Jim Johnson; Jerry Jorgensen; Peggy Thomson; and Frank Winston.

OPENING REMARKS OF HON. ED JONES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. JONES of Tennessee. The Subcommittee on Conservation and Credit will come to order.

Today we will hear witnesses on H.R. 2610, the Water Resources Planning Act of 1979. The bill authorizes the funding of the U.S. Water Resources Council for 1 year through fiscal year 1980. It also increases from $3 million to $20 million the amount authorized for cost-sharing with the States to assist them in management programs and technical assistance.

A new function delegated to the Council by Presidential Executive order provides that the Council will conduct a technical review of all water projects including those of the Army Corps of Engineers, the Bureau of Reclamation in the Interior Department, and the Soil Conservation Service.

The jurisdiction of this subcommittee as over H.R. 2610 arises from this impact on the Soil Conservation Service watershed program.

The bill has been reported from the Interior and Insular Affairs Committee. It was then referred sequentially to the Agriculture Committee and the Public Works Committee, and we have until June 29 in which to act.

I believe the issues involved here are important to the subcommittee, to rural America, and to agriculture in general. It is unfortunate we must act under this deadline.

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I have also found it is rather difficult to get a firm handle on exactly what the administration is after.

Three pieces of legislation have been submitted to Congress by the administration. This fragmented approach does not lend itself to careful legislation.

[The bill H.R. 2610 follows:]

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96TH CONGRESS
1ST SESSION

H. R. 2610

To amend the Water Resources Planning Act (79 Stat. 244, as amended).

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 1979

Mr. UDALL (by request) introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

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A BILL

To amend the Water Resources Planning Act (79 Stat. 244, as amended).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Section 401(a) of the Water Resources Planning Act of 1965 (79 Stat. 244, as amended) is hereby amended by deleting the words: "the sum of $2,886,000 for fiscal year 1979" and inserting in lieu thereof: "the sum of $3,119,000 for fiscal year 1980 and such sums as may be necessary for fiscal year 1981".

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(b) Section 4(b) of the Water Resources Planning Act (79 Stat. 244, as amended) is amended by deleting the words "the sum of $2,500,000 for fiscal year 1979" and inserting in lieu thereof "the sum of $4,230,000 for fiscal year 1980, and such sums as may be necessary for fiscal year 1981".

(c) Section 4(c) of the Water Resources Planning Act (79 Stat. 244, as amended) is amended by deleting the words: "The sum of $3,179,900 for fiscal year 1979 for preparation of assessments, and for directing and coordinating the preparation of such river basin plans as the Council determines are necessary and desirable in carrying out the policy of this Act: *Provided*, That $828,900 shall be available under this subsection for preparation of the Columbia River Estuary Special Study: *Provided further*, That $308,000 shall be available under this subsection for preparation of the New England Port and Harbor Study and $135,000 shall be available for completion of the Hudson River Basin Level B Study: *Provided further*, That $150,000 shall be available under this subsection for completion of Case Studies of the Application of Cost Sharing Policy Options for Floodplain Management in the Connecticut River Basin: *Provided further*, That not more than $2,500,000 shall be available under this subsection for the preparation of assessments." and inserting in lieu thereof: "The sum of

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$2,815,000 for fiscal year 1980 and such sums as may be necessary for fiscal year 1981 for preparation of assessments, and for directing and coordinating the preparation of such regional or river basin plans as the Council determines are necessary and desirable in carrying out the policy of this Act.".

(d) Appropriations authorized by this Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases authorized by law.

SEC. 2. The Water Resources Planning Act (79 Stat. 244, as amended) is further amended as follows:

(a) Section 301 of the Water Resources Planning Act of 1965 (79 Stat. 244, as amended) is hereby amended by deleting all of section 301 and inserting in lieu thereof a new section 301 to read as follows:

"SEC. 301. (a) In recognition of the appropriate role of the States as the focal point for comprehensive water and related land resources management (herein called water management) and a national need for:

"(1) development and implementation of State water management programs;

"(2) a nationwide emphasis on water conservation;

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"(3) integration of water quantity and water quality planning and management;

"(4) integration of ground and surface water planning and management;

"(5) protection and management of ground water supplies;

"(6) protection and management of instream values; and

"(7) enhanced cooperation and coordination between Federal, State, and local units of government. The Congress hereby establishes a program of financial and program assistance to the States for the development, implementation, and modification of State water management programs and the establishment and implementation of water conservation technical assistance programs.

"(b) In recognition of the increasing need for conservation and improved management of water and related land resources of this Nation, there are hereby authorized to be appropriated to the Water Resources Council $50,000,000 annually, up to $25,000,000 of which may be appropriated to assist States in the development, implementation, and modification of water management programs, and up to $25,000,000 of which may be appropriated to assist States in establishing and implementing water conservation technical assistance programs.

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"(c) The Council shall prescribe guidelines by rule, no later than one hundred and twenty days after enactment of this title, to carry out its functions and responsibilities under this title. These guidelines shall assure (1) coordination of the program authorized by this title with related Federal programs, and (2) appropriate utilization of other Federal agencies administering programs which may contribute to achieving the purposes of this title. The Council may also establish other procedures, arrangements, and provisions that it deems necessary.".

(b) Section 302 of the Water Resources Planning Act of 1965 (79 Stat. 244, as amended) is hereby amended by deleting all of section 302 and inserting in lieu thereof a new section 302 to read as follows:

"SEC. 302. (a) From the sums available pursuant to section 301(b) (except as provided in section 303(f)) for any fiscal year for water management programs, the Council, in accordance with its guidelines promulgated pursuant to section 301(c), shall allocate annually an equal amount to each State, with the remaining amount allocated on the basis of such factors as population, land area, financial need, and need for improved water management.

"(b) From the sums available pursuant to section 301(b) (except as provided in section 303(f)) for any fiscal year for water conservation technical assistance, the Council, in ac-

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cordance with its guidelines promulgated pursuant to section 301(c), shall allocate annually an equal amount to each State with the remaining amount allocated on the basis of such factors as population and need for water conservation.

"(c) For the purposes of this section, the population of the State shall be determined on the basis of the latest estimates available from the Department of Commerce and the land area of the State shall be determined on the basis of the official records of the United States Geological Survey.

"(d) From each State's allocation for water management programs under this section, the Council shall provide to the State an amount which is not more than 50 per centum of the cost of carrying out its State water management program approved under section 303(a).

"(e) From each State's allocation for water conservation technical assistance programs under this section, the Council shall provide to the State an amount which is not more than 50 per centum of the cost of carrying out its State water conservation technical assistance program approved under section 303(b).

"(f) Notwithstanding the provisions of sections 301 and 303 and the other provisions of this section, the Council shall annually reserve for the benefit of federally recognized Indian tribes 1.5 per centum of the sums available for financial assistance pursuant to subsection 301(b) (except as provided in

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section 303(f)). The Council shall, by rule, prescribe guidelines for the allocation and use of this reserved portion to carry out the provisions of this subsection. The Council may, after affording reasonable opportunity for comment by the Governor of a State, provide financial assistance to an Indian tribe in that State of no more than 50 per centum of the costs of approved programs under this section, if it finds that—

"(1) such Indian tribe has demonstrated that an unmet need for Federal financial assistance for such uses is deemed consistent with the purposes of section 301 and the guidelines promulgated thereunder;

"(2) assistance provided under this subsection will not be used to duplicate or substitute for any assistance provided for any water management or water conservation technical assistance provided by another Federal agency, a State, or a unit of local government for use or benefit of and with the consent of the Indian tribe; however, funds made available hereunder may be used to supplement or augment existing programs; and

"(3) such Indian tribe is capable of performing all pertinent requirements of sections 302 and 303, including the matching requirements under this subsection. The Council shall ensure that any program submitted by an Indian tribe for direct Federal financial assistance under this subsection shall meet all pertinent re-

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quirements of sections 303 (a), (b), and (c), suitably modified in guidelines to address tribal entities as opposed to State entities, including participation of the affected Indian tribal members and consultation with the Governor(s) of the State(s) in which the tribe is located, or designees, in the development, modification, or implementation of any water management or water conservation technical assistance program prepared by or for such Indian tribe. Assistance received by tribes from any Federal agencies, other than the Bureau of Indian Affairs' assistance for water management or water conservation technical assistance, consistent with Public Law 93-638, section 104 (25 U.S.C. 450h), cannot be used to meet the matching fund requirement of this section.

Funds reserved under this subsection which are not obligated by the end of any fiscal year shall be reallocated for the following fiscal year in accordance with provisions of subsection 301 (a) and (b) of this section.".

(c) Section 303 of the Water Resources Planning Act of 1965 (79 Stat. 244, as amended) is hereby amended by deleting all of section 303 and inserting in lieu thereof a new section 303 to read as follows:

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"SEC. 303. (a) The Council may approve any program for water management submitted by a Governor which at a minimum shall provide for—

"(1) the development and implementation of a water management program in the State to address identified goals and objectives of the State water policy, to include the integration of planning and management of water quantity and water quality as well as the integration of planning and management of ground and surface waters, the protection and management of ground water supplies, and the protection and management of instream values, taking into account prospective demands for all purposes served through or affected by such activities;

"(2) coordination with all Federal, State, and local agencies, federally recognized Indian tribes and nongovernmental entities involved in water related management programs; and

"(3) participation of the public in the development, modification, and implementation of the water management program.

"(b) The Council may approve any program for water conservation technical assistance submitted by a Governor if the program is submitted with, and is an integral part of a

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water management program approved under section 303(a), and which at a minimum shall provide—

"(1) information, data, or expertise to the public and private sector to evaluate and/or establish projects or programs related to the conservation of water resources;

"(2) for coordination of the State programs with local units of government and federally recognized Indian tribes in terms of the availability of such technical assistance;

"(3) for coordination of the State programs with related technical assistance programs of Federal, other State and local agencies; and

"(4) for participation of the public in the development, modification, and implementation of the water conservation technical assistance program.

"(c) Each program submitted by a Governor under this title shall—

"(1) designate a State agency (hereinafter referred to as the State agency) to administer the program;

"(2) set forth the procedures to be followed in carrying out the State program and in administering such program;

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"(3) provide annually an assessment of progress in meeting the goals and objectives of the water management and conservation technical assistance programs;

"(4) provide assurances that State plans and management activities associated with other related Federal programs are consistent with the overall water resources policy of the State as submitted in the water management program;

"(5) provide that the State agency will prepare and submit reports in a form and containing information as the Council may reasonably require to carry out its functions under this title; and

"(6) provide for such accounting, budgeting, and other fiscal methods and procedures as are deemed necessary by the Council for keeping appropriate accountability of the funds and for the proper and efficient administration of the program.

"(d) Funds provided to States for water management and conservation technical assistance may be passed through to local governments for use in developing and implementing this program.

"(e) The Council, in administering the program, shall—

"(1) review each State program submitted by a Governor for compliance with the appropriate rules, regulations, guidelines, and other requirements;

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"(2) notify the Governor of approval of the program or intent to disapprove within ninety days after receipt of the application for financial assistance; and

"(3) not disapprove any program without first giving reasonable notice and opportunity for a hearing to the Governor.

"(f) The expenses of the Water Resources Council in administering title III of the Act shall be derived from available funds pursuant to section 301(b).".

(d) Section 305 of the Water Resources Planning Act of 1965 (79 Stat. 244, as amended) is hereby amended by deleting all of section 305 and inserting in lieu thereof a new section 305 to read as follows:

"SEC. 305. (a) The Council shall provide annually to each State an estimate of the allocation of funds for the fiscal year and at such time invite each Governor to submit an application for financial assistance.

"(b) The Council shall make payments to each State through the disbursing facilities of the United States Department of the Treasury and in accordance with advance financing regulations of that Department at such times and in such installments as the Council may determine.".

(e) Section 306 of the Water Resources Planning Act of 1965 (79 Stat. 244, as amended) is by deleting all

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of section 306 and inserting in lieu thereof a new section 306 to read as follows:

"SEC. 306. For the purposes of this Act, the following definitions will apply:

"(1) 'State' means each of the fifty States, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, or the Virgin Islands.

"(2) 'Fiscal year' means a twelve-month period ending September 30 of each year, unless otherwise specified.

"(3) 'Comprehensive water and related land resources management' means those activities necessary to effect coordinated decisions for the use of water and related land resources within a State or interstate region; which consider the potential for water and related land resources use from the standpoint of present and future needs; and which provide for involvement of affected interests. Water management activities may include but not be limited to planning, data collection and analysis, studies and investigations, program design and coordination, regulation and enforcement (excluding litigation costs), mass media and technical information dissemination, professional staff training,

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public meetings, and coordination of water and related land resources use.

"(4) 'Water conservation technical assistance' means providing information, data, or expertise to evaluate and/or establish projects or programs designed to (1) reduce the demand for water, (2) improve efficiency in use and reduce losses and waste of water, or (3) improve land management practices to conserve water. These activities may include but not be limited to public education, information dissemination, feasibility studies, water system analyses, on-site consultation, and establishing and implementing water exchanges.

"(5) 'Federally-recognized Indian tribe' means any federally recognized tribe, band, nation, or other organized group or community for whom, or for whose members, the United States holds land on trust or restricted status.".

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Mr. JONES of Tennessee. I will ask any other members of the subcommittee if they have any comments.

Mr. Madigan, do you have any comments?

Mr. MADIGAN. No, Mr. Chairman. Thank you.

Mr. JONES of Tennessee. Mr. Baldus?

Mr. BALDUS. No thank you, Mr. Chairman.

Mr. JONES of Tennessee. Mr. Bedell?

Mr. BEDELL. Thank you, Mr. Chairman.

At this time I have two future farmers of America from my district I would like to recognize in the audience.

Mr. JONES of Tennessee. Very good. Stand up gentlemen; we are delighted you are here. [Applause.]

I feel very comfortable with you in the room, for I, too, was a future farmer, and I suspect that all members of this subcommittee were at one time future farmers, so we hope you can stay with us.

Our first witness this morning is the Honorable Guy Martin, Assistant Secretary of the Interior, accompanied by Mr. Leo Eisel, Director of the U.S. Water Resources Council.

Mr. Martin, I know something of your background before you came to Washington, and we are glad that you are here at this time.

STATEMENT OF GUY R. MARTIN, ASSISTANT SECRETARY, U.S. DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY LEO M. EISEL, DIRECTOR, U.S. WATER RESOURCES COUNCIL

Mr. MARTIN. I do thank you for those remarks, Mr. Chairman. Sometimes I do think fondly of Alaska during the summers here.

Thank you very much for having us here.

As you know this is a historic event, at least for the Water Resources Council, because we have never had the opportunity to appear before this subcommittee before. I think that the House ruling that provided for this is a sound ruling and one that we very much appreciate, because this subcommittee does have substantial interests in the Council and the business that it does.

As you indicated in your comments, Mr. Chairman, the House has reported out a bill favorably, a bill which we support with some amendments which I will comment on later.

I think it is important to note, since we have not been here before, that the Water Resources Council as it exists now is not the first time the Federal Government has made efforts to see that the many Federal agencies working on water resources have a central and coordinated body through which to work on a series of problems and also that the Federal Government provide the forum for cooperating with regional and State and local entities for the purpose of working out solutions to water resources problems.

I have pointed out in my prepared testimony what some of the precedents are for the Water Resources Council.

The Council, as you know, was created in 1965 in the Water Resources Planning Act, and it is that authorization for which we are here today—to seek an extension of that authorization.

Mr. Chairman, the Council is comprised of the Secretaries of several Cabinet agencies: The Departments of Agriculture, the Army,

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Commerce, Energy, Housing and Urban Development, Interior, Transportation, and the Administrator of the Environmental Protection Agency.

Each of those agencies is on the Council because they have significant water resource responsibilities programs and each participates largely through individuals like myself at the assistant secretarial level in the work of the Council.

There is also a permanent Council staff, and each of us in our own Department commits a substantial amount of the staff of our offices and the bureaus in the offices to work on water resources and Council activities.

As you know, the law provides that the President appoint a Chairman of the Council, and President Carter has appointed Secretary Andrus as Chairman, and I act as his alternate, chairing the Council of Members Alternates.

There are 25 separate Federal agencies which together spend about $10 billion annually for water resource development, management, and water quality in our Federal system. Those are the agencies that are in the eight Departments that are represented on the Council.

It serves as a single forum for those Departments to work together to coordinate their activities in a way which is in the public interest and carries out the programs in an efficient and nonduplicative way.

We meet regularly, Mr. Chairman—and I will talk a little about this later—in an effort to do business and to carry out the intent of the Council.

An example of the kind of things we do is cited in my testimony in the form of the so-called consistency policy. Putting it simply, it is an action that the Council took last year after a policy discussion in achieving agreement among the Federal agencies on the Council. When a river basin commission region planning entity comes up with a plan for water resource management in a region, the Federal agencies would then work consistently, as they were able to within their legal mandate, with that plan. It was a way of not only achieving agreement among the agencies but of giving a proper level of respect to the good work done by the river basin commissions and the regional planning areas.

The Council also, as part of its regular activity, does what can best be described as professional and technical work in the area of water resources.

I think the members of this subcommittee are probably familiar with the Second National Water Assessment, which is a comprehensive look at the Nation's situation with respect to water.

That assessment was recently out and I am sure we have made it available to the subcommittee; if not, we will make it available promptly. It is regarded as a basic, technical, professional reference for people in the water resources area at all levels of government and is, I think, a highly regarded document.

Also, in talking about the Council, I think it is important to mention the river basin commissions. They are joint Federal/State coordinating commissions established under title II of the Water Resources Planning Act. At this time there are 6 of these commissions and they cover all or part of 32 States.

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Some areas of the country have not yet opted to form commissions, but our experience is that it is a very useful mechanism for coordinating the work of several States, the Federal Government, and local governments in water resource planning.

They work on their own level very much like the Council. They bring agencies together, they get together with the State and local governments, and they do planning and standard setting in a way that we think is important to the process.

The Federal chairman of each of these commissions is appointed by the President, and all the Federal agencies that are represented on the Council are very active in the work of each of these regional organizations.

In addition, every State is represented on its appropriate commission, and their expenses are jointly shared by the Federal Government and the States. The river basin commissions are active on virtually every aspect of water resource management planning as possible.

A typical example that I cite in my testimony relates to the Upper Mississippi River Basin Commission. As you know, there have been a series of problems over a period of time in the Upper Mississippi. Last year, Congress took what we thought was an unprecedented and wise action in choosing the River Basin Commission itself to prepare a master plan for the Upper Mississippi River Basin.

By giving that level of trust and that assignment to the River Basin Commission, we think that Congress endorsed a very valuable concept and will get in return a good consensus product.

Title III of the Water Resources Planning Act recognized, properly we think, that the proper focus for water planning and management is at the State level. As a result, it created a grant assistance program for States to do water resource planning. That program has been funded over the years at a rate of about $3 million a year, and that is equated to an average grant to each State of about $60,000 per year. I will mention later in my testimony that the administration has concluded, as a part of its water policy, that this is really not enough.

In the case of water planning, the need for increased State capability for overall water management and the need for a larger role for States is sufficient to justify increasing the State grant program to a level of $50 million overall, with $25 million for the purpose of assisting States to improve and expand water management and to be better and fuller partners with the Federal Government in working on these problems.

I have presented a brief statement about what the Council does since I am here for the first time. I have appeared in Congress before to discuss the activities of the Council—once shortly after I came to this job 2 years ago and last year, both times before the Interior Committee. On these appearances I believe I was quite candid in cataloging what I felt to be some very serious deficiencies in the Council and some real failures on the part of the Council over the years to live up to the potential that Congress had intended for it.

I think the fact that the President authorized a water policy review over the past 2 years and then as a result of that adopted a water policy—an unprecedented act for a President in recent years—is evidence of the fact that this type of review was needed. His reliance on the Council in that review was very significant.

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In my testimony I say that the Council has been accurately criticized, in our view, for not becoming the effective coordinator, the strong source of planning standards, or the broad policy leader which Congress intended.

We have made every effort in this administration to substantially improve the record of the Council in these three areas—coordination, planning standards, and policy leadership.

The Council was deeply involved as one of the central pivotal points in the study of water policy that the President carried out. The Council is now central to the implementation of that policy.

The staff, in our view and the view of the members of the Council from the various Departments, conducted itself very capably and gave us absolutely essential assistance in making that policy come to life.

The President has now decided that the Council should continue to play an enhanced role in water resource issues that I discuss throughout my testimony.

I think that the best summary that I can give you of my testimony regarding the continued existence of the Council is that the President has obviously taken water resources issues very seriously.

He has undertaken a review. He has actually articulated a policy, and at the same time he went through a rather comprehensive study of the organization relating to water resources and the Federal Government.

Even before he decided not to advance his natural resources reorganization, he made a decision not to reorganize in the area of water. Part of that decision, unquestionably, was that he did not believe that there was adequate support to carry out such a reorganization.

At the same time he made that decision he also made a decision that the continued and enhanced role of the Water Resource Council should substitute for water resources reorganization.

He has asked both that it be continued and that it be strengthened as a part of that decision.

Turning to the bill that is before you, let me briefly work through a couple of the sections that are significant to us.

Section 1 extends the authorization for appropriations to the Council through fiscal year 1980. We have requested that this authorization be for a 2-year period. Without belaboring it, let me simply say that the controversial and sometimes tumultuous events of the past 2 years on water have taken a toll on the Council. It has been very difficult to keep that very effective and important water resources body functioning, staffed, and running efficiently at a time when its future is so uncertain.

We believe, therefore, that once we have worked through whatever problems may exist with this bill, it is very important that Congress give the Council a 2-year authorization that will allow the Council to get down to doing the business that it needs to do.

Section 1(a) provides authorization for appropriations for river basin commission expenses. There is no need to elaborate that. We feel strongly that this ought to be adopted by the subcommittee.

The next section, section 1(b), deals with the administration and coordination funds for operating the Council, including staff salaries. It includes approximately $1.5 million for a full year's operation of the independent water project review function, which I will discuss later.

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This might be an appropriate time for me to note that a good deal of discussion has been engendered with regard to this authorization. And, this discussion has treated the independent project review as virtually synonymous with the Council or its continued existence.

There are really two separate items at stake here. The first is the continued existence and functioning of the Council itself, which functions as the coordinator of Federal action and interface between the State, Federal, and local governments, a sponsoring agency for the river basin commissions, and staff for doing the technical work on water assessments and so on.

A second issue, which is a proposed additional function for the Council, regards the independent project review.

While they are related and there are important connections between the two, they really are separate issues, I think it is important for the subcommittee to note the distinction.

Section 1(c) of the bill provides authorization for comprehensive planning with river basin commissions, and in some cases, single or multi-State ad hoc efforts to address regional interagency and interstate water management problems.

We requested $2.8 million for this activity; the Interior bill referred to your subcommittee includes an additional $300,000 for a water conservation study in the New England region.

Section 2 of the bill completely revises title III of the present act; we believe this drastically changes the scope and level of commitment to a water resource management grant assistance program for the States.

In this section, we would authorize two grant programs for States, both emerging from the President's water policy. The first is to expand the existing State planning program from a level of $3 million to a level of $25 million.

We have proposed this because we believe that States need greater assistance on a matching basis from the Federal Government to do work on water resource planning.

In our water policy review we found that the capabilities and commitments of States in water resource planning varied to a great extent. Some States—California is a good State to cite—have a long record of established water resources planning. Other States—for lack of a better State to criticize, let me take my own State of Alaska—literally have devoted very few of their resources over the last years to water resources. Only in the past couple of years have they come to realize how important good management of their water at the State level can be.

We think that at a reasonable cost this program would be extraordinarily beneficial and have payoffs for the Nation as a whole.

We have accompanied that with a proposal for a second program—also in the amount of $25 million and also a matching program—for the provision of technical assistance in water conservation, the cornerstone of the President's water policy.

To talk a bit about the rationale, the discovery of our water policy review is not a unique one. It confirmed work done by many others. Water conservation is obviously different and the techniques for practicing it and the gains that might be expected to be achieved through it are different in various regions of the country.

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What we suggest is a program which will give assistance to the States in looking at the proper level—the State level—at those things that can be done technically to achieve better water conservation.

One of the major results overall of the present water policy was, as I said, to give a major endorsement to the Water Resources Council as a central entity in the water resources work of this country.

We think that in many cases the President has acted to see that, if this bill is passed, the Water Resources Council will be a stronger and more effective agency in the future.

We believe that the existence of strong management capabilities within the States will allow us to work better with them and provide a better overall product.

We are convinced that, given the maximum requirements that we have proposed, arguments that we have heard occasionally stating that some States might not be able to meet the match is not a realistic argument. The experience of the Council and perhaps Dr. Eisel, who is with me and can describe this further, is that the States are willing and extremely eager to take this matching fund and use it for good water resources planning.

There are endorsements from many States for this program. These endorsements, I believe, are probably in the hands of the subcommittee.

We should note that the Interior Committee was fearful of State capabilities and in their authorization reduced the two-$25 million programs to a total of $21 million—$10 million in each program and $1 million for administration. We only suggest to you that we think the higher level is justifiable in terms of State interest and capability.

I know that the subcommittee is concerned about the impact of continued Council operation on the Soil Conservation Service. We have with us today Dave Unger and Joe Haas from the Department of Agriculture to discuss that so that they can personally share with the subcommittee their role in this process and the impact they feel it will have on the Department and on the Soil Conservation Service.

The independent water project review which I mentioned earlier will not only cover the Department of Army's Corps of Engineers, and the Department of Interior's Bureau of Reclamation, but will also cover the Soil Conservation Service. It will give a thorough and impartial technical review to the Department of Agriculture reports in the same way it will to those of the Department of the Interior and the Department of the Army.

At this point, Mr. Chairman, I believe I will conclude my statement. I would be happy to respond to questioning by the subcommittee.

Again I am pleased to be here and look forward to establishing a good working relationship with this subcommittee.

Mr. JONES of Tennessee. Thank you, Mr. Martin.

We appreciate your attendance, and inasmuch as you have summarized your statement, I ask unanimous consent that we put the entire statement in the record.

[The prepared statement of Mr. Martin follows:]

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WATER RESOURCES COUNCIL

Statement Before
House Committee on Agriculture
Subcommittee on Conservation and Credit
June 14, 1979
By
Guy R. Martin, Alternate to the Chairman

Mr. Chairman, I thank you for this opportunity to appear on behalf of the Water Resources Council in support of H.R. 2610. This bill, originally introduced by Mr. Udall at the Administration's request was reported favorably, with amendments, by the Committee on Interior and Insular Affairs on May 15 and was then referred to your committee. With the exceptions I will describe in my testimony today, the Administration strongly supports this bill as an important part of an overall response to the water resource management problems facing our Nation.

Today is the first opportunity in its 14-year existence for the Council to appear before any subcommittee of the House Committee on Agriculture. Thus, I would like to tell you first something about the Council, its history and our proposals for improving it in the future.

Many different water resource interagency coordinating entities have been created and abandoned since the first such group was created in 1907. The Water Resources Council is the most recent and, I feel, most successful such organization. The Water Resources Planning Act of 1965 established the Council and outlined its duties, authorized the establishment of cooperative Federal/State River Basin Commissions, and initiated a program of planning grant assistance to the States.

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The Council is comprised of the Secretaries of Agriculture, the Army, Commerce, Energy, Housing and Urban Development, the Interior and Transportation, and the Administrator of the Environmental Protection Agency. Each of these cabinet departments has significant water resource programs and their appropriate Assistant Secretaries participate actively in the affairs of the Council. Under the law, the President appoints the Chairman from this group. President Carter has appointed Secretary Andrus as Chairman and I serve as his alternate.

As you well know, Mr. Chairman, there are presently at least 25 separate Federal agencies which together spend annually about $10 billion for water resource development, water management and water quality improvement. These 25 agencies are housed in the eight departments represented on the Council. The Council thus presents a single forum for the discussion and resolution of conflicts between these programs and provides a vehicle for capitalizing on their complementary aspects. The Council Members at the Assistant Secretary level meet regularly to discuss and resolve issues which have been researched and documented by the professional staff of the Council. A typical example would be the Council's "consistency policy" passed last year. Basically, it provides that after Federal agencies have participated with States and with river basin commissions in formulating regional water resource management plans, the agencies implement their activities consistent with those plans. We will thus capitalize on the value of the many Federal planning dollars which have been expended over the years, and increase the reliability of the overall system.

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The Council conducts and periodically publishes nationwide assessments of the state of our water resources, with intense detail on available water supplies and on demands for use of those supplies. The most recent assessment, The Second National Water Assessment, was published in December of last year and provides nationally-consistent data on a broad range of water resource issues, and presents to the Congress and the Administration an understandable body of information for water resources decisionmaking.

The river basin commissions are joint Federal/State coordinating commissions established under Title II of the Water Resources Planning Act. Six of these river basin commissions have been established to date covering all or part of 32 States. Similar to the Council itself, they provide the regional forum and focus for the resolution of conflicting program goals and project implementation in the regions. The Federal chairman of each commission is appointed by the President and Federal agencies are active in that region and represented by appropriate regional officials. Each State is represented on the commission and their expenses are jointly shared by the Federal Government and the States. The river basin commissions are active on a wide range of planning issues of concern to their individual areas. The Upper Mississippi River Basin Commission, for example, was charged by the last Congress with development for subsequent congressional approval an Upper Mississippi River System Master Plan which, when approved, will be the controlling guide for all future development for navigation and for other purposes along the Upper Mississippi System.

Title III of the Act recognized the principal focus for water planning activities should be the States and the Act provided for a system of matching

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grant assistance to allow these States to expand and develop their planning capabilities and to prepare State water resource plans, working closely with the principal Federal water agencies. This program has over the years been funded at approximately $3 million per year and, thus, has provided an average of $60,000 per State, per year of planning assistance.

I cannot assure you that the Council has fully lived up to the opportunities and potential in the Water Resources Planning Act. In fact, the very need for the national water policy review of the last two years emphasizes some of the shortcomings of the Council. Particularly in recent years, the Council has been accurately criticized for not becoming the effective coordinator, the strong source of planning standards, or the broad policy leader which Congress intended. To every area, we have made substantial efforts and, we believe, show some improvement. The active role played by the Council in the preparation of the President's water policy message was perhaps the best sign of progress. The Council and its staff demonstrated they can and should play a major part in developing national water policy initiatives. The President has now directed that the Council and its staff should continue to play a major part in implementing the President's initiative Their expertise and experience are critically required to continue the reforms which were started by the President and which should and will provide a more open and effective water resources policy. Specificially, the Water Resources Council has been assigned the lead role for revising and improving the Principles and Standards, for carrying out the independent project review, and for administering the expanded grant programs for States.

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Turning now to the specific bill before you, Mr. Chairman, S.B. 2530 has two sections: Section 1 amending Title IV of the Act, the "miscellaneous title," and Section 2 which amends rather significantly Title III of the present Act.

Section 1 extends the authorization for appropriations to the Council through Fiscal Year 1980. The Administration had requested that this authorization be for both Fiscal Years 1980 and 1981. In limiting the extension to one year, the Interior Committee indicated that they would be taking a further look and holding further hearings on the structure and operation of the Council during the present session. We appreciate that, but do find that it is difficult for the Council to effectively operate and attract and retain qualified staff with such an indefinite authorization process. In addition, we think it is important to indicate to the States and their legislatures a positive Federal commitment to continuing the worthwhile programs of the Council. The Administration still feels that a two year extension is necessary and warranted.

Section 1(a) provides authorization for appropriations for the river basin commission expenses. As noted earlier, the Federal Government funds salaries and expenses of the chairmen and shares with the States the cost of operation of the river basin commissions. A total of $3.2 million would be authorized for Fiscal Year 1980 for these purposes.

Section 1(b) provides the "administration and coordination" funds for operating the Council, including salaries of Council staff. It also includes approximately

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[illegible]able all States to improve and expand their management programs to the level of competence we now find in a few States. The existence of strong water management capabilities within the States will permit States to optimize the impact of ongoing Federal programs of the Soil Conservation Service, the Corps of Engineers, the Environmental Protection Agency and other agencies. The management funds and the water conservation funds could be passed through to local units of government and could likewise be matched by expenditures of those levels of government. In both cases, the Administration is proposing 50/50 cost sharing between Federal and non-Federal entities.

We are convinced, given the matching requirements we have proposed, that most if not all States would be capable of carrying out a worthwhile and effective water resource management and water conservation program at the proposed [illegible] million level of authorization. While the Interior Committee reduced this authorization to $21 million ($10 million per year for each program and $1 million for administration), we feel the higher level is fully justified and supportable.

Your Committee will be concerned, I'm sure, with the impact of continued Council operation on agencies under your direct purview such as the Soil Conservation Service. Instead, the independent water project review of the Council will consider project reports from the Soil Conservation Service and will provide to the Secretary of Agriculture the same thorough and impartial technical review to those reports as will be given to other projects competing for the limited Federal water resource investment dollar. Deputy Assistant

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tion's vital water resources.

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withdrawal of water in this country is used for irrigation, and over 80 percent of all consumptive use of water is by agriculture.

In our small watershed program, we have installed over 6,000 dams for a variety of purposes, and we have helped farmers install nearly 40,000 small ponds.

Because of the high use of water by agriculture, this Department probably has more opportunities to help conserve water than any other. Wise water management can help to increase instream flows, improve the quality of salt-laden rivers, and increase supplies to water short areas. We have an important stake in the water policies of this country and welcome the opportunity to present our views in the deliberations of the Council. We believe that it is vital to have consistent policies among similar programs in different agencies and believe that the Council helps to achieve such consistency.

The greatest impact the Council has involves our small watershed program. Many of the project plans developed under that program come before this subcommittee for consideration.

The small watershed program was authorized in 1954 and was focused primarily on flood prevention and agricultural water management—drainage and irrigation—in upstream agricultural areas. It was designed to fill the gap between conservation measures applied by the individual farmer and major flood control works on the Nation's rivers. The Congress has since broadened the authorizing legislation, Public Law 83-566, to include virtually all aspects of water management except navigation and hydropower.

In addition to flood prevention and agricultural water management, projects now often include recreation facilities, fish and wildlife enhancement, municipal and industrial water supply, and water quality improvement.

These features of water management bring the program under the general umbrella of national water policy which is coordinated by the Water Resources Council in accordance with the Water Resources Planning Act of 1965. That act also authorized the establishment of river basin commissions and provides for periodic assessment of water resources, the most recent of which was published just a few months ago.

The discount rate by which we evaluate projects—now 6⅞ percent—and the principles and standards for planning are products of the Council. In addition, the Council has established guidelines for flood frequency analysis and for flood plain management. It also initiated a series of seminars recently to investigate issues involving wetlands and flood plains.

The bill you are considering, H.R. 2610, authorizes the continuation of Council activities through fiscal year 1980. And, as Mr. Martin has described, it also provides grants to States to assist them with development of water management programs and also to help them establish and implement water conservation technical assistance programs.

The original bill contained authority to continue the Council through 1981 and for grants of $25 million for each purpose. The bill reported from the Committee on Interior and Insular Affairs amended these to $10 million for each purpose and also provided for extension of the Council only through 1980. We support the original bill.

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Although not contained in H.R. 2610, your subcommittee may be interested in two other related matters as they affect USDA programs—the independent review function, and proposed changes in cost sharing.

First, we will discuss the independent review. This is a plan to establish within the Water Resources Council a staff to review project proposals independently of the agencies that developed them. The purpose of the review is to assure consistency of planning procedures among the water resource agencies and compliance with the President's water policy. In most cases the review would be completed in 60 days. Most of our small watershed projects would be subject to this review.

The results will be helpful to the Secretary of Agriculture in deciding whether or not to recommend a project for authorization and could be helpful to this subcommittee in its deliberations on the merits of a project. We are hopeful that significant project delays will not result from this review and fully support its implementation.

The cost-sharing proposals, which are contained in separate legislation pending before the Congress, often will increase the local sponsor's share of project costs, due primarily to the requirement that at least 20 percent of flood prevention costs be assigned to local sponsors. We do, however, support the equalization of the amount of local contribution to flood prevention costs that is provided for structural as well as nonstructural measures.

Today, local sponsors are required to provide land, easements, and rights-of-way only. This construction would count toward the 20 percent, but would not usually be sufficient.

We estimate that projects authorized but not yet started, having a total estimated cost for flood prevention of some $475 million would require additional contributions by sponors of about $30 million if the 20-percent requirement were to be implemented for those projects.

We state this amount only to give you an idea of the scope of the change, which would apply, however, only to projects that are authorized in the future. The requirement for State cost sharing of either 5 or 10 percent of Federal water project costs is not applicable to small watershed projects.

In summary, Mr. Chairman, we have a substantial interest in the activities of the Water Resources Council and in national water policy in general.

Within the Council, USDA is one of the eight decisionmakers and one of the three major construction agencies. We believe the Council serves an effective technical role and has become more effective in policy development and decisionmaking. We recommend that it be continued, that it assume the independent review function, and that States be given a greater role through the grants programs.

Thank you for this opportunity to testify, Mr. Chairman. We will be pleased to respond to any questions.

Mr. JONES of Tennessee. Thank you very much, Mr. Unger. Can you remain until we hear the next witness? We find it is more satisfactory to question all the witnesses at one time.

Mr. UNGER. Yes, sir.

Mr. JONES of Tennessee. We have had a notice of a vote. We will recess and come back as soon as we possibly can.

The subcommittee will stand recessed.

[Recess taken.]

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Mr. JONES OF Tennessee. The subcommittee will resume its sitting.

The next witness is Mr. Neil Sampson, executive vice president of the National Association of Conservation Districts here in Washington.

Mr. Sampson, thank you for being here. We appreciate the fact that you came up to testify.

You may proceed.

STATEMENT OF NEIL SAMPSON, EXECUTIVE VICE PRESIDENT, NATIONAL ASSOCIATION OF CONSERVATION DISTRICTS

Mr. SAMPSON. Thank you, Mr. Chairman.

Mr. Chairman and members of the subcommittee, as you are well aware conservation districts are deeply concerned with any changes in Federal procedures that might affect the planning implementation of projects under Public Law 566, the small watershed program.

We are cognizant of the fact, as I know you are, that this program is different from the other Federal water programs. It is much more keyed to local sponsors and deals with much smaller projects in rural areas and concentrates on land treatment and some of the other aspects more than it does on the structural measures and needs to be handled, we think, in a different way than the other water programs. So, we are going to look at it specifically today.

I will skip through my testimony rather quickly, Mr. Chairman, if I could ask for permission to have it printed in full?

Mr. JONES of Tennessee. Without objection the entire statement that you have presented will be placed in the record.

Mr. SAMPSON. We support the continuation of the Water Resources Council as a coordinating form for water policy and for resolution of interagency differences.

In the past, as you are aware, we have opposed the reorganization of the water agencies into one super agency, because we feel the differences between the programs and their goals necessitates different agency approaches and delivery systems.

We are concerned that if all Federal water programs were brought together in one big department the needs of rural America would be too easily passed over. The delivery system of USDA, which we feel is so essential to these small projects, would be lost.

We think a better alternative to that is a good Water Resources Council that can effectively coordinate Federal water efforts. We are not so certain that the WRC can be fully effective in this role under the current arrangement. The chairmanship has rested in the Department of Interior for the existence of the Council and we feel that may detract from the independence of that agency.

We would recommend that section 101 of Public Law 89–80 be amended to either provide for a rotating chairmanship or for an independent chairmanship. If such legislation comes before you, we will support that.

We think this would keep the WRC more of an interagency coordinating body.

You have heard something of the independent review process which is being proposed by the President. We think that is something that needs to be done, but it needs to be done right, and I hope the subcommittee will pay special attention to the details on this one.

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This review is supposed to replace the review currently taking place on the Office of Management and Budget. That is fine if it does, but we feel that needs some strong oversight by Congress so we do not get just two reviews instead of one.

We have the situation right now where projects are reviewed, reviewed, and re-reviewed. I put a rather long list in my testimony of some of the reviews that small watershed projects do go through—obviously all the A–95 reviews, all of the environmental reviews under the National Environmental Policy Act, and many other kinds of reviews, both interagency, and finally to the Department and finally to the appropriate committees of Congress.

Projects do not lack for review and when we talk about another review within the Water Resources Council we need to, I think, be clear about what it needs to accomplish and why. There are some details here that we feel should be considered.

First is the time thing. The current regulations call for the review to take no longer than 90 days—60 days with a 30-day extension if the date is not sufficient. We want to urge that these timeframes be kept as short as possible.

With the small watershed project it is not just the Federal dollars that get wasted in the delay process but also the local support and the local dollars for rights-of-way and for other things. The delays simply continue to mount the costs and are really a problem with these projects.

We think the review should be limited to only those features that are not covered by prior reviews and that the Water Resources Council should simply review the agencies' planning aspects, the cost-of-benefit calculations, and some of the other things in line with WRC guidelines as their review.

We think that the data and methods that WRC requires should be the same as those that are required under all the other review procedures so that we do not have to put any formulations and new information together simply for this review.

I think the cost ought to be kept as low as possible. Right now the budget for this function is about $1.5 million a year for just the independent review process out of a $4.3 million budget for the entire staff. That is quite a lot of money. I suspect it might not be too much in light of the total thing, but I think we ought to keep it in perspective. As you know, we are trying to keep a watershed planning budget, we are trying to construct watersheds, we are trying to do water-quality projects—for instance, under the rural clean water program, we cannot find any money for those. So, at a time when we are having real trouble finding the money to do what we know needs to be done, we want to be very cautious about creating new circumstances that are going to cost us more money to get the projects to the implementation stage.

The H.R. 2610 that you have in front of you has been amended to reduce the amount of water-planning grants and water conservation technical assistance grants from $25 million to $10 million annually. The administration has proposed that those be returned to $25 million, and we would support that.

We think the States need to become more involved in both categories and the $25 million figures are realistic.

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We do have some concern for the water conservation technical assistance program. With over 80 percent of the Nation's consumptive use of water going for irrigation and with irrigation now reported at least in some quantity in 46 States, it seems likely that a fair share of this effort should go into helping to irrigate. However, there is already a technical assistance program for irrigators run by the Soil Conservation Service through conservation district programs. So, if WRC sets up a similar system, we would like them to use that existing delivery system as much as possible. We do not need new bureaucracies at either the State or local level on this issue at this point.

We have discussed this with them and I think they agree with us. We urge this subcommittee, however, to take a long look at that, because you are after all the subcommittee responsible for the technical assistance program which currently exists in this country and I am sure you have some interest in that.

Finally, we would like to note that the cost sharing proposed for the State water planning should require that the States should continue the effort that they are now making. This new extension of Federal dollars into the State water planning should not be a chance for States backing out of the efforts they are already in, but should be seen as a way to accelerate, supplement, and encourage additional State participation.

We appreciate the subcommittee's interest in this important water-policy area. We are very glad to see the House Agriculture Committee get a crack at this one because of the important implications that it does contain for the programs that you oversee.

We would be happy to answer any questions we can.

[The prepared statement of Mr. Sampson follows:]

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STATEMENT

of
Neil Sampson, Executive Vice President, NACD
to
The Subcommittee on Conservation and Credit
House Committee on Agriculture
on
H.R. 2610 -- AMENDMENTS TO THE WATER RESOURCES PLANNING ACT
June 14, 1979

Mr. Chairman. Members of the Committee. I am Neil Sampson, Executive Vice President of the National Association of Conservation Districts. NACD, as we are commonly known, represents the nation's 2,950 conservation districts, the 50 state associations of conservation districts, and the 17,000 conservation district officials that serve them. Those district officials live, for the most part, in rural America, and serve without pay to assure that the quality of rural life is enhanced in every possible way.

The quality of rural life has been improved through the wise development of water resources. The programs of the federal government that have developed irrigation water supplies, protected watershed areas, and reduced flooding damage have had powerful influence over rural areas, and the lives of rural people. They have been vital links in our nation's effort to use and conserve natural resources wisely. Changes in these programs affect the efforts of conservation districts around the country.

District programs will be most directly affected by changes in the federal procedures for planning and implementing projects under P.L. 566, the Small Watershed Program. This program, as you are well aware, is different from the other federal water programs. It is specifically designed for small projects in rural areas. It focuses heavily on land treatment, less heavily on structural controls. It concentrates on upstream areas, and not on the management of large interstate streams. It involves local sponsors in actual ownership of completed works of improvement.

National Association of Conservation Districts
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The Water Resources Council should be continued as a coordinating forum for water policy and for resolution of inter-agency differences. We have opposed the reorganization of all water agencies into one super-agency, because we feel that the differences between the programs and their goals necessitates different agency administrations. If all water programs were brought together in one federal department, the needs of rural America would be quickly passed over, and the delivery system of USDA, which is so essential in getting these small projects implemented, would be lost.

A better alternative than reorganization, we have proposed, is a Water Resources Council that can effectively coordinate federal water efforts. We doubt, however, if WRC can be fully effective in this role under the current arrangement. Instead of being an independant agency, WRC is essentially an extension of the U.S. Department of the Interior. We recommend that Section 101 of P.L. 89-80 be amended to either:

a. Provide for a rotating chairmanship; or,
b. Provide for an independant chairmanship.

This would help keep the WRC truly inter-agency, and would assure that they do not attempt to become a super-agency in the field of water resource planning and development. It will assure that the agencies retain, as they must, the final responsibility for their own projects and programs.

We have some concerns with the independant review process being proposed by the President. It is something that needs to be done, but done right, and this Committee should pay special attention to the details as they unfold. For example, we are told that this review will replace the review currently done in the Office of Management and Budget. This is badly needed. OMB has no business conducting a substantive review of projects. But we have little faith that OMB will back out gracefully, and it will take strong oversight by the Congress to assure that we do not simply replace one review with two.

We have the situation right now where projects are virtually reviewed to death. The time, and expense, of the current procedure has stopped many excellent projects, and made others vastly more expensive.

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Let me just list a few of the reviews that a Small Watershed Project currently goes through, and keep in mind that most of them have been put in place in the past decade. They are:

1. At the application stage:
   a. Sub-state regional A-95 Review
   b. State A-95 Clearinghouse Review
   c. Coordination Review with U.S. Fish and Wildlife Service
   d. State and local environmental statutes

2. During planning:
   a. Environmental assessment
   b. Environmental impact statement
   c. Technical reviews at the state, regional and national levels
   d. Public participation reviews locally

3. Prior to project approval:
   a. State and sub-state A-95 review
   b. Necessary permits and clearances for local and state environmental statutes
   c. In-house reviews in SCS at state, regional, and national levels
   d. 404 permit from the Corps of Engineers, if needed
   e. Environmental impact statement review under NEPA
   f. Review within USDA
   g. Review within OMB
   h. Review by appropriate Committees of Congress

This list, while by no means complete, points out that projects today do not lack for review. Now we talk about another review within WRC. It is important that we require that this new review process meet several goals:

1. It should take no more than 90 days in total. The proposal now would be for a 90-day review period to begin after WRC is satisfied that they have all the information needed to conduct the review. That has too much delay potential. An alleged lack of information could delay a project indefinitely, and the easiest thing in the world to do is to dream up new data requirements.

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2. The review should be limited to only those features not covered by prior reviews. All WRC should do is check the agency's calculations of costs and benefits, and other planning aspects, to assure that the agency has followed WRC guidelines. 3. All methods and data required for compliance with WRC Principles and Standards, NEPA, 404 permits, and A-95 reviews should be accepted by WRC, with no new formulations or information needed simply for the WRC review process. The scope of projects, especially federally-assisted projects, should not be subject to WRC review.

4. The costs should be kept as low as possible. Right now, the budget for this function is proposed to be $4.3 million per year. That is equal to about 1/3 of the total SCS budget for watershed planning in FY 1979. We could construct two P.L. 566 projects with this much money.

We could carry out several water quality projects under the Rural Clean Water Program, a program for which this Congress has been unable to find funds for the past two years. We need to keep this in perspective. When we can't find the money to do what we already know needs to be done, it is a poor time to create new ways of making projects more expensive.

H.R. 2610 has been amended to reduce the water planning grants and the water conservation technical assistance grants to states from $25 million annually to $10 million annually. We would support the return to the $25 million level for both programs. States need to become more involved in both activities, and $25 million can be well used in both categories if WRC carries out the programs well.

We have some concerns with the water conservation technical assistance program. With over 80 percent of the nation's consumptive use of water going for irrigation, and with irrigation now reported in 46 of the states, it seems likely that a fair share of this effort should go toward technical assistance to irrigators. But there is already a technical assistance program to irrigators, operated through SCS and conservation districts.

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If WRC sets up a similar program, it should use the existing delivery system, and not foster the establishment of a new state technical assistance staff. We have discussed this with WRC staffers. We would urge this committee, as the committee responsible for the current conservation technical assistance programs, to require that these funds be used primarily for on-site technical assistance to water users and, that state agencies designated to receive these funds be required to develop an agreement with the state soil conservation agency to assure that full coordination of technical assistance programs is achieved.

In addition, we would hope that discussions on this legislation would clearly establish legislative history affirming that conservation districts are legitimate recipients of these funds under Section 303(d). This is, as we interpret it, the intent of the legislation, and we feel that many states will determine this to be the most effective way of providing technical assistance on water conservation.

Section 302(d), dealing with the federal cost-sharing for state water management programs, should have an additional requirement that states maintain their present levels of effort. Otherwise, in those states with large state water planning budgets, the federal dollars could simply replace current state-funded activity.

We appreciate this Committee's interest in these important water policy proposals, and the opportunity to make our views known. We would be pleased to answer any questions you might have.

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Mr. JONES of Tennessee. Thank you very much, Mr. Sampson.

That concludes all of the witnesses that we have on the agenda today, and I would like to ask those who have been heard—Mr. Martin, Mr. Unger—to return to the witness table for questioning by the members of this subcommittee.

Without objection, we will continue to use the 5-minute rule as it applies to the questioning period, and if there is no objection the chairman has a few questions he would like to start off with this morning.

I usually allow the other members of the subcommittee to go first, but I have a few I would like to ask now.

Mr. Martin, would you give us a summary of the recently introduced legislation that deals with water resources—specifically I am referring to H.R. 2610, H.R. 4127, and a May 23 executive communication which requested a further strengthening of the Council. Will you elaborate on that?

Mr. MARTIN. I am sorry, but the numbers you cite do not ring a bell. I am sure you are talking about this bill of course, which is a bill providing for the continued authorization of the Water Resources Council and for the State grant programs which I described in my testimony.

The other bill you referred to is, I am certain, the administration's cost-sharing proposal.

Mr. JONES of Tennessee. What about the executive communication that requested a further strengthening of the Council?

Mr. MARTIN. Yes, sir. That is a communication that I understand has not yet been introduced, but it is a series of additional amendments which we believe will also have the effect of strengthening the Council. They are supplemental to the bill that is before you now, and my understanding is that at least the Interior Department intends to hold hearings on those later this month.

Mr. JONES of Tennessee. My real question is, why cannot all these be put together and be in one legislative proposal?

Mr. MARTIN. Mr. Chairman, I think with regard to the legislation before you today and the executive communication it certainly is possible to do that.

The reason they came up separately is that the President was satisfied with the bill that was sent up before you today.

In our conversations with the House Interior Committee—which until this year has been the sole committee hearing this issue—they asked us specifically to look at some additional changes and asked us to respond to a bill they had before them, introduced by Mr. Vento of Minnesota. In doing so, we developed the subsequent package. It was not an intentional act on our part to send the bills up separately. We did it in response to the House Interior Committee, and we were pleased to do it. There is no logical reason, however, why they could not be together.

With regard to cost sharing, we felt that that proposal, first of all, took longer to develop. It was a more complex matter for the administration to clear. We felt that the subject matter and issues presented were different enough that it would be easier for everyone to consider it as a separate matter.

Mr. JONES of Tennessee. Can you tell this subcommittee why the administration felt it was necessary to retain a law firm in November

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of last year to see if the authority exists by which the President could order an independent review function within WRC?

Mr. MARTIN. Yes, sir, I think I can.

First of all, we were dealing with an issue that was new to the Council and, rather than relying solely on the legal advice or the cumulative advice of all the members of the agency, the Executive Director of the Council made a decision to seek an independent legal opinion.

That opinion, of course, was made available to all members of the Council, and I am certain that all the other members asked our solicitors or general counsels to look at that issue to see what they thought of the opinion. Basically, we had the benefit of both our own individual counsel and that independent finding.

I might point out that it was also a time, unfortunately, when the counsel for the Water Resources Council, our inhouse counsel, was departing and we did not have a staff counsel.

Mr. JONES of Tennessee. You did not have a staff counsel?

Mr. MARTIN. No, sir, our staff counsel resigned just prior to that period.

Mr. JONES of Tennessee. The concern of this subcommittee is that, with as many counsels and attorneys as we have on Capitol Hill and down in the other branches of Government, there should have been someone there who could have done this job for you without your having to go outside.

Mr. MARTIN. Mr. Chairman, you raise a good point.

We were attempting to achieve the type of independent opinion that we thought would be helpful.

I might say one thing that I hope will be of interest to the subcommittee. One of the reasons we did not have the house counsel at the time is that the young man we did have, of whom we thought a great deal of, left partially because of the frustration over the inability of the Council to get back on a solid basis.

This is a very difficult management problem for Dr. Eisel to manage in that context. That is really what we are trying to get across to you.

Mr. JONES of Tennessee. Thank you, sir.

I am going to take my 5 minutes, but I do have one other question to ask you. It is rather lengthy statement that I want to make. It relates to the domination of the WRC by the Secretary of the Interior; in other words, a conflict of interest.

The Chairman of WRC is designated by the President. Presently, Secretary of the Interior Andrus is its Chairman. The issue of domination by the Secretary of Interior or his conflict of interest arises when the administration claims the technical review process would be an independent one.

The Secretary of the Interior is responsible for approving project recommendations that are made by the Bureau of Reclamation.

He follows the Bureau's projects to WRC for independent technical review. But the Secretary of the Interior is also Chairman of WRC. In this role he is responsible for approving projects on the grounds of technical compliance and accuracy.

In other words, the Secretary of the Interior is given the power to approve his own agency's water projects even though the technical review claims to be independent.

Presently, the WRC must vote unanimously in order to submit a favorable review of a project which can then be forwarded to OMB for policy and budget review.

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One member of WRC can, if he chooses, delay a project approval indefinitely. If an unfavorable technical review is issued, the project is sent back to its sponsoring agency for further study; is that correct?

Mr. MARTIN. No, sir, there are inaccuracies. If I may——

Mr. JONES of Tennessee. I wish you would clearup that question for us.

Mr. MARTIN. Yes, sir. First of all, Mr. Chairman, let me again separate two issues.

The first is the Council itself acting in its comprehensive role of coordination, setting planning standards, and working with river basin commissions.

Second is the independent project review.

Let me address the first issue—the broad role of the Council.

As you know, the law provides that the President appoints the Chairman. This President and others before him have chosen to appoint the Secretary of the Interior. I cannot say why in each case that selection was made, but it has clearly been a choice the President has been comfortable with.

Let me say this about independence. I have heard, and I noted in Mr. Sampson's testimony today, the feeling that independence automatically creates bias. In all the time that I have worked with the Council, I have never seen any evidence of that.

The fact is that the Secretary does chair it as Secretaries have in the past. This means that a higher percentage of my time goes into Council activities and working with the Council staff, all of which is not entirely pleasurable, I might add. I have never heard anybody, after once saying they were worried that a bias had been created, cite an example of that bias. I am aware of none and have never heard it cited. I understand the fear, but I do not think it has ever been manifested. That goes with regard to the Council's work as a whole.

With regard to the proposal of an independent review which has truly focused attention on that independence, we believe that we have formed a proposal and the President has produced a proposal which he thinks is free of bias.

Let me explain why that is. First, your statement is apparently based on a misunderstanding of the facts in the review itself. The review is to be, as we said, a technical review based on a set of standards which will be formulated in a public format with comments by the public. It is to be carried out in public by the staff of the Council. That staff is hired by the Executive Director who is not hired by the Secretary of the Interior but by the entire Council as voted on by the Council.

The review will be carried out on a technical level by the staff. In fact, the policy level of the Council which I serve on will never take an action on the review. I never expect to vote on either one of the reports on my projects in the Bureau of Reclamation or one on that relates to the Soil Conservation Service. It will be completed by the staff and, if favorable, will be reported back to the agency that made the proposal. If it is unfavorable, the agency will be advised of the Council's difference of opinion. If favorable, the agency will be advised of that and they will be advised on the record of what the problems or benefits are.

Even if the agency receives an unfavorable comment—in my case I would be receiving a commentary on the Bureau of Reclamation which

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I have no vote on—they would have the option of rejecting the Council's findings and going to OMB to get that project approved.

The finding of this independent review is basically one of public documentation and process rather than a veto.

Therefore, I think the real problem is that the Secretary might continue to chair the Council, but there would be on policy action and no vote taken on the reports. It would simply be a written statement of findings.

Mr. JONES of Tennessee. Thank you, Mr. Martin, I see the time of the chairman expired some time ago, and I do apologize to the subcommittee.

You have answered one question for me and that is that the Secretary of the Interior has always been the Chairman of WRC since its creation.

Mr. Baldus, do you have a question?

Mr. BALDUS. I yield to Mr. Madigan.

Mr. MADIGAN. Mr. Martin, is the Attorney General in charge of the responsibility of providing legal opinions to the various departments and agencies of the Federal Government?

Mr. MARTIN. The Attorney General is charged with providing legal services strictly in the form of litigation—court work for the various departments. Each of the departments has its own counsel for the purpose of getting general legal opinions.

Mr. MADIGAN. Is it not within the authority of the Attorney General to issue a legal opinion to any agency or department of the Federal Government upon request? Is it not also a rather common practice for agencies like the Department of Agriculture, the Department of Transportation, and others to seek legal opinions from the Office of the Attorney General?

Mr. MARTIN. I do not know the facts of other agencies. As a routine matter, at Interior at least, we do not ask the Attorney General to give initial opinions on the work of the Department itself. The Justice Department is usually involved at the point where there is litigation involved. It is certainly within their authority, and it is certainly done on occasions.

Mr. MADIGAN. But it was not done on the particular occasion that Chairman Jones referred to, so I would like to ask how the law firm that was retained was selected and how much they were paid.

Mr. MARTIN. The choice was left to the Executive Director. It was not a policy matter, and I think he——

Mr. EISEL. What happened was that last fall we did not have a lawyer at the Council and we needed some information and the person who wrote that opinion was formerly a counsel at the Water Resources Council. He was, therefore, a past employee who was familiar with the Council.

Mr. MADIGAN. How much did you pay him?

Mr. EISEL. I do not have that figure. I am sorry.

Mr. BEDELL. Would the gentleman yield? It seems to me that that is the greatest concern of all, having an attorney working in Government and then going into private practice and then being employed by the agency for which he once worked and paid a private fee. This seems much more of a concern than if it were just an attorney that had no connection with the Department.

Thank you, gentlemen.

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Mr. MADIGAN. I think we would like to know three things for the record if we may, Mr. Chairman. I would like to know how much he was paid. I would like to know exactly what type of service he provided and how much work was done in providing that service. And I would like to know what kind of law practice he is presently engaged in—specifically I would like to know if he is working for a firm that is primarily engaged in the pursuit of environmental action.

Mr. Unger, it is my understanding that the type of water project in which the Department of Agriculture is involved has an upper limit that is measured or stated in acres or feet.

Mr. UNGER. Acres.

Mr. MADIGAN. Acres?

Mr. UNGER. 250,000 acres of geography is the upper limit of the size of Public Law 83–566 watershed project.

Mr. MADIGAN. So you go from that size down to a farm pond that might be 2 acres?

Mr. UNGER. That is correct.

Mr. MADIGAN. And it might be smaller?

Mr. UNGER. It might be smaller.

Mr. MADIGAN. I think you said you have built some 6,000 small dams and 40,000 small ponds.

I should like for you to describe for me the failures, mistakes, and inadequacies of your Department in building these small ponds that now cause you to believe that your work must be reviewed by another Federal agency.

Mr. UNGER. I do not believe we are describing our farm pond program as the kind of program that would be subject to this sort of review. Indeed it is not, and would not be.

I know of no inadequacies of any general nature with that program. I do not know of any specific inadequacies that we would want to say exist in the overall Public Law 83–566 program as it is carried out by the Soil Conservation Service either.

The planning methods, the policies, the procedures that are used in carrying out Public Law 83–566 small watershed projects are voluminous. They are interpreted at various levels in the Soil Conservation Service at the field level, the State level, and the regional level because we believe them to be a decentralized kind of organization.

Mr. MADIGAN. May I suggest that what your answer is saying is that there have not been any failures, mistakes, or inadequacies?

Mr. UNGER. Let me say that I do not think it is inadequacies that we are necessarily talking about. We are talking about differences in interpretation and differences in planning procedures that might be carried out by the Soil Conservation Service that are different than those of the Corps of Engineers and the Bureau of Reclamation.

Our feeling is that the independent review that would be conducted by the Council, of which we are a full and participating member, can provide a check to make sure that all these agencies are interpreting the procedures, principles, and standards consistently.

Mr. MADIGAN. If the farm ponds are not going to be covered by this, can you tell me where the line of demarcation is? Can you give me a list of the projects that will be covered and the projects that will not be covered?

Mr. UNGER. The projects that are going to be covered are those in Public Law 83–566.

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Mr. MADIGAN. My 5 minutes are up. Mr. Chairman, are we going to take another round?

Mr. JONES of Tennessee. Yes; without objection we will.

Mr. MADIGAN. Mr. Unger, I want to point out to you that what you have just said is in complete contradiction to the statement that you read a little earlier where it says, "most of our small watershed projects would be subject to this review."

Mr. UNGER. That is correct. The farm ponds are not built under the small watersheds program. They are provided for under a separate authority and program, and I only mentioned them to give some idea of the breadth of the interests of the Department of Agriculture in water resources of all kinds.

Mr. MADIGAN. Mr. Chairman, I have more questions but I do not want to abuse the 5 minutes. I will wait for my next turn.

Mr. JONES of Tennessee. Thank you, Mr. Madigan.

Mr. Eisel, do you understand that you are to supply for the record, regarding the attorney, how much he was paid, what he provided, and what he now does as far as his practice is concerned?

Mr. EISEL. Yes, sir.

[Answers to Mr. Madigan's questions and other questions submitted appear on p. 73.]

Mr. JONES of Tennessee. Mr. Baldus, I yield to you.

Mr. BALDUS. Thank you, Mr. Chairman.

First, I want to state a frustration so you know where I am coming from.

After 14 years it seems to me that nothing has happened. We have some water projects that are 3 percent and some that are 6⅞ and we have all kinds of ranges of cost benefits.

I guess I am trying to find out what has happened in 14 years. You do not have any teeth. You cannot veto. You do not want teeth and you do not want veto power.

It's like what I read in the paper the other day where a State legislator offered a bill and said, "This won't hurt anybody, and it won't do any good, and it won't cost anything."

The difference is this does cost something and we have people doing things but the benefit to me is still elusive. I am still trying to find out what it is. I understand there is still one more checkpoint to go through, but if I am going to relate future benefits to past performance I am having great difficulty putting that together.

Am I justified?

Mr. MARTIN. First, let me offer to make available to you some rather extended testimony I gave which documents the record of the Council over these years. I think it leads me to the answer to your question, which is that the Council has done a great number of extraordinarily useful and important things during its history.

I think that your comment, however, of a failure to achieve a uniform, credible process for planning a project and evaluating a project shows that you properly recognize the situation.

My response to you is, that is exactly the problem we think we are beginning to grapple with successfully in water policy.

The independent review is only a part of it. A more important part may very well be the President's initiative in directing the Council to revise the principles and standards under which projects are planned and to establish a manual for applying those principles and standards

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so that the three major water resource agencies—Soil Conservation Service, Bureau of Reclamation, and the Corps of Engineers—actually carry out those principles and standards in planning consistently.

The independent review is a complement to that order in the sense that once the manual is done and we are hopefully achieving a more uniform approach—technically, economically, and environmentally—the independent review function then becomes a checkpoint to look at that uniformity.

Mr. BALDUS. I have a water project in my district that is a Corps of Engineers project that is about three-fourths completed and three-fourths of the money is spent and all we need to do is close it. The last 3 or 4 years it has been stopped because of a change in policy.

It is awfully hard to explain to those folks that we still do not know enough about water to start correctly so that we can finish something.

I think it is going to be equally difficult to say, "but now we have a new system that is going to take care of it. These people have been in business for 14 years and now they are going to come alive and do something."

I am questioning whether or not you need a sort of toothless committee process versus some sort of authoritative——

Mr. MARTIN. Let me try to address that.

First of all, I think I can share a conclusion with you. If we had proposed, as you say, a process with teeth and with veto power, we saw no support for that. It was our view that the individual agencies ought to retain a tremendous amount of control over the process.

We proposed a process which basically gains its integrity from the the fact that it is a publicly documented process based on a publicly prepared set of standards.

Let me contrast that with what happens now. Even though it is true that each of our agencies has formidable internal review processes—and I look at the Bureau of Reclamation projects that come by me—there really is no place that reviews those projects in a publicly documented fashion that is external from the agencies themselves.

Mr. BALDUS. Here, we are.

Mr. MARTIN. That is right, and I think that is an important distinction, and we agree. You have to be the final judge. The only review that takes place now after the agencies, however, is the one carried out by OMB. That process proceeds without stated rules, without a stated basis for conclusions, and with no published results except the budget that emerges.

What we are essentially trying to do here is to plant a part of that process with something that really is in the sunlight.

Mr. BALDUS. Let me pose this question because my time is about to run out.

I am concerned over the implications of this change to the WRC and the relationship between the activities and the planning processes of the Soil Conservation Service mandated by the Soil and Water Resources Conservation Act as well as the planning processes of the U.S. Forest Service and Forest Management Renewable Resources Planning Act, amended.

Would you, Mr. Martin and Mr. Unger, explain the relationship to this subcommittee so we can be sure that the WRC planning manual

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will not take precedence over the planning processes of agencies within the Department of Agriculture?

Mr. UNGER. Let me attempt to answer that.

My answer would be that the manual of procedures book and the process that we are describing in the independent review would not affect the RPA and RCA planning processes underway in the Department in the Forest Service and the Soil Conservation Service. Those are long-range planning processes designed to look at the status and condition of those resources and needs for the future and to make long-term projections and statements of policies and programs for the Department.

What we are talking about in the independent review for the Water Resources Council is a look at the individual water resources plans that are to be sent forth by the Soil Conservation Service under Public Law 83-566 and to look at the procedures that are used in planning individual projects—which may be suggested by a long-range RCA plan some day once that process is underway; it is just underway at this time. The planning we are going to look at and review are the procedures that we use in planning individual projects.

Mr. BALDUS. Thank you, Mr. Chairman.

Mr. JONES of Tennessee. Thank you, Mr. Baldus. Mr. Bedell, I yield to you.

Mr. BEDELL. Thank you, Mr. Chairman.

Mr. Martin, when can we expect some results as you indicated to Mr. Baldus?

Mr. MARTIN. There is a phased process and I would be glad to supply the schedule for the record.

The first work under the President's policy has already been published. That includes revisions to the principles and standards that deal with water conservation and nonstructural alternatives in water-resource planning.

A second element that has already been published relates to the draft of the manual for standard application of the principles to the standards that would apply to all of the construction agencies.

Those items are now out for comment and the comment period closes in 60 days.

Mr. BEDELL. When will it be completed? I mean your total change in the ruling.

Mr. MARTIN. The total change in the principles and standards overall will not be completed until the end of 1980. It is a very formidable job.

Mr. BEDELL. I guess the problem we have, and it was mentioned as well by Mr. Unger, is draft changes to the principles and standards to incorporate water conservation nonstructural concerns in regard to benefit and cost analysis.

I, for one, think that our cost-benefit analysis is just ludicrous—that the Corps of Engineers and the Bureau of Reclamation put out.

It appears to me that in an irrigation project, if you were in business and you were trying to decide if you should irrigate land, you would determine what it would cost, and how much it would increase the value of the land. Now, that is not a complex thing to do.

When the engineers decide they want to irrigate, however, they decide how many cows a person has and how it is going to affect the community and a whole mile-long string of things.

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I think you have to recognize that there is still some interest in Congress in "pork barrel." Maybe I am not supposed to say that straight out, but that is the case. If anybody is going to control that, we are going to have to have some regulations from somebody to put some sense into how we determine cost-benefit ratio.

If we are going to have those interests in "pork barrel" and the Corps of Engineers working together to try and spend the taxpayer's money in a ludicrous manner, it is going to continue.

It seems to me this is something that is imperative that this Council address.

My question is, is that going to be the last thing you will address?

Mr. MARTIN. No, sir. That is, in fact, the first thing we have already addressed. What you just described is the principal subject of the so-called planning manual that I just described, which is now up for public comment.

Assuming that the comments justify the changes as they should in the public process, that should be the——

Mr. BEDELL. How do I get my comments into that, in terms of the objections that I have to the present cost-benefit analysis?

Mr. MARTIN. Mr. Congressman, the regulations themselves are based on an authority in the Water Resources Planning Act. Congress has not chosen at any time to actually legislate the kind of regulations you are talking about. So your alternatives are to either attempt to legislate what you want or participate in that regulatory process which is now open.

Mr. BEDELL. Do I mail that somewhere, or do I testify somewhere, or what do I do?

Mr. MARTIN. At the close of this meeting we will give you a set of the proposals including where comments should be mailed.

Mr. BEDELL. Have you given any consideration to cost sharing by States or communities in those areas where the benefits are going to accrue only to the communities or the States? I am talking about flood control in a community where you would expect the community to put up 10 percent of the cost or about irrigation where you would expect the State or community to put up 10 percent of the cost. I think you would find it quite a different thing as compared to where the Federal Government handed the whole thing over.

Mr. MARTIN. That is, of course, the subject of the administration's cost-sharing proposal which is now before Congress.

Congressman Udall has introduced the bill in the House. I think there are also others. It has also been introduced in the Senate. It asks for precisely what you are proposing. I might also say that the theory of that bill is that we are asking the States—and we are proposing that the State legislators make the decision—to share in the cost of the project. It is probably the best test of real desire for a project that we can find.

Mr. BEDELL. It is likely, then, that your rules and recommendations might even suggest that, is that correct?

Mr. MARTIN. We do not believe we have the authority to establish cost sharing to any regulatory——

Mr. BEDELL. I did not ask you to establish it. You can recommend, however, how things should be done, as I understand it. Do you expect that that will be one of your recommendations?

Mr. MARTIN. That recommendation is not a part of the principles and standards.

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Mr. BEDELL. My final question is, do you handle the 160-acre limitation in irrigation?

Mr. MARTIN. Yes, sir.

Mr. BEDELL. Do you believe it is being properly enforced?

Mr. MARTIN. We clearly do not believe it has been properly enforced, and that is exactly the reason that the administration has taken a series of actions designed to amend that law and to achieve better enforcement.

Mr. BEDELL. Are you responsible for the enforcement of the law?

Mr. MARTIN. The Bureau of Reclamation is, and they are under my direction.

Mr. BEDELL. I do not understand your answer. If the law is there and is not being enforced, and you are the agency responsible for enforcement, and you say it is not being properly enforced——

Mr. MARTIN. Perhaps I answered wrongly, Mr. Bedell. We think there are serious problems. We think that the enforcement of that law is proper, at least according to the legal interpretations that are before us. As you know, that case is now being litigated in California.

The administration has proposed changes in that law which we think are appropriate, and we believe that in the interim we are enforcing the law appropriately.

Mr. BEDELL. Thank you, Mr. Martin.

Mr. JONES of Tennessee. Mr. Panetta?

Mr. PANETTA. First of all, I want to welcome the gentleman and thank him for coming before the subcommittee on this issue.

I think this is a very important area that we have to look ahead to because I think we are going to have the same problems in water that we have in energy in this country. I think this becomes more apparent every time we experience a drought.

The fact is, however, that we have not planned in a coordinated fashion for what may be the very same needs, which are production, the provision of water, the need to develop alternatives for water supply, and also the need for improved conservation.

I believe that at some point we are going to face these water-related issues just as we are now facing them in the area of energy.

Because of that, I think it is very important for any administration to be able to coordinate water policies. I have to admit to you, however, that having been in the executive branch I am very jaundiced by councils. Councils become a charade for pretending that major policies can be coordinated within an administration. The councils themselves become a way of actually protecting turf rather than coordinating policy.

You put together, as you have in the Council, the Secretaries of Agriculture, Army, Commerce, Energy, Housing and Urban Development, Interior, Transportation, and the EPA and what you have done is bring together agencies that are not about to surrender turf. They are not about to surrender it to a council that is set up to do it.

In effect what happens is that the secretaries of these departments never show up at these meetings; they assign a staff person to do it. The main mission of that staff person, then, is to make sure that the projects that those departments are working on are not jeopardized by what the Council is doing.

That is the reality we deal with in establishing the Council.

You have problems in this area. As you pointed out, I think you have some 25 separate agencies that are involved here that are located

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in about eight different departments and are all developing vari approaches to water resource management and water projects.

I think the problems in that area were reflected in what happe last year in the last session on the water-project issues. The Wh House took one position which was opposed by positions of the Bure of Reclamation and the Corps of Engineers, which were all thrown c on the floor of the House. I think that looks bad. There is no reas why an administration cannot take one position with regard to project.

My problem with the Water Resources Council—and I have intr duced legislation on this—is that I think this ought to be in th Executive Office of the President. The White House ought to make th decision on whether to proceed with a project or not.

I see no reason why the Water Resources Council has to issu another technical review which simply is another paper in the pot All you are doing is sending ammunition up here to the Hill to arm those with a variety of positions on the issues.

I think if you are going to have a Water Resources Council do a review it has to have more power. It needs the power of the White House behind it and the power to say, "This is the project we think ought to go ahead." Otherwise, you might as well continue with the eight different departments all presenting their different positions to the Hill with no coordinating White House policy.

That is just a general observation. My question is, Why not have—and I realize the politics of this—one policy on water projects? We do not want to have a water council that spends almost $10 million on administration simply review what has already been reviewed by other departments and agencies.

I think you ought to take the strong step, that is to say the Water Resources Council is going to review these projects and will determine what position the White House will take with regard to them.

Mr. MARTIN. Mr. Congressman, let me answer two points you raised.

First, why we do not go for the whole load. The answer is very simply that I think the President looked as seriously as he could through the reorganization effort at exactly that issue. He looked at it, I can assure you, painstakingly.

Our Department and the others represented on the Council were actively involved in that. It involved not only a logical analysis, but also a political analysis.

I can assure you, I think, that in those thorough-going consultations there was literally no hope that such an organizational setup would be sustained. The President concluded, even before he made his final decision not to advance the whole natural resources organization, not to include that sort of water reorganization in it.

At the time the President made that decision, he reached the conclusion that the best way to proceed was to stay with the Water Resources Council, to give it a substantially greater level of responsibility—including the independent project review—and some direct responsibility on the principles and standards that go with it. So, I think it is clear that there is a difference of opinion over what is doable and what is possible.

The second point I would like to respond to is that I share—as a person who has chaired this Council for the past 2 years—some of

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your skepticism [illegible] even cynicism about councils. Let me suggest to you, however, we really think that we have made some substantial changes to the way this Council works. Let me give you one example. You said that the secretaries never show up at Council meetings. It generally gets delegated down to a third echelon person there.

The Council has functioned very well with, I would say, 80 to 90 percent attendance and regular meetings every 4 to 6 weeks at the assistant secretarial level. I think that is the best you can hope for. You simply are not going to get Cabinet-level secretaries meeting on a regular basis. There are too many areas to be covered. At the assistant secretarial level, however, we have superb participation.

Let me give you an example of an issue that was resolved recently in a format that I think was very significant. We had a serious argument within the Council as to whether or not this manual, which is essentially a uniform approach to the way in which cost benefits are calculated, should come out as an advisory set of guidelines or as proposed regulations.

There was an intense debate which lasted over three Council meetings—a period of 8 to 12 weeks—and finally by a very difficult and highly debated vote we decided to go with regulations. It was a good example of how the Council can resolve policies on key issues.

I am far more hopeful, therefore, than you are- particularly in view of the faith the President has put in the water policy that it is a reasonable way to go.

Mr. PANETTA. Thank you.

Mr. JONES of Tennessee. Thank you, Mr. Panetta. Mr. Daschle?

Mr. DASCHLE. Thank you, Mr. Chairman. I want to welcome you people here today also. I am very impressed with some of the comments that have been made.

I have a couple of skepticisms, however, with regard to the real question of responsibility—both technical and policy related.

As I understand it you will begin to take on almost total technical responsibilities as far as the evaluation of the project is concerned, is that right?

Mr. MARTIN. No, Mr. Congressman. There is a theme to our policy recommendation here. It is that the basic responsibility for projects remains where it has always been, that is in the program agencies- the Bureau of Reclamation and the Corps of Engineers- and that the final decisions remain in Congress where they have always been.

What we are proposing to do is to shift a series of technical review procedures that are now carried out by OMB. OMB has a closed, nondocumented and nonpublic process. We are attempting to shift the technical aspects of that review to the Water Resources Council where it will be done by a competent water resources staff bringing together the work of all of the various construction agencies into one place. The objective of that is public documentation for public process and as much assurance as you can get of the uniform approach by the three agencies.

Mr. DASCHLE. I guess you know exactly what my fear is. On the one hand as far as technical reviews go they still will be in the hands of those other agencies, and on the other hand when we talk about policy with you I am not so sure that if we pass this legislation we will be taking away that authority from OMB.

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What I am skeptical about is whether when that time comes, if you have a disagreement with OMB, the WRC is going to be the final authority. In my opinion, I think given the politics in any executive branch, you are going to find the OMB is still going to have the last say. In essence all we will have done is put one more buffer between the local technical reviews and the ultimate policy decision that is made in OMB. We really will not solve anything at all.

Mr. MARTIN. That is very aptly stated, and I have to say it is exactly the kind of concern that I grappled with in looking at this.

The reason I have greater hope than you is that I think you are proceeding from perhaps either a negative view of the administration's views of the project—which is legitimate because we are tough on projects. I do not think that negative view really reflects what we think will come out. I believe that there are many good projects which simply do not get built for a variety of factors.

One of the factors is right up here on the Hill. Projects get built because of political pressures and political balance of power rather than on merits.

I think the same is true to a certain extent in terms of the way those pressures or even internal pressures of the administration are pushed through.

Even though I know that after a technical review is done on a project the OMB still have a budget review power, I would much rather be armed with a clean bill of health and a good report by WRC that is on public record and prepared in a public process than to simply have to debate them the way I have to now in a bare-knuckle, budget session between OMB and the Bureau of Reclamation.

I think I will be better armed to defend good projects in those budget sessions than I am now.

Mr. DASCHLE. Let me take another tack to the question I have in the time available to me. That relates to the projects themselves.

You were talking about the 250,000 acres limitation at the top and basically the small watershed program on the bottom, is that correct, Mr. Unger?

Mr. UNGER. No. Let me clarify that.

Under the Small Watershed Act and the Public Law 83–566 program, the total size of the geographical areas of projects that come before this committee cover a maximum of 250,000 acres. The maximum structure within that area would be 25,000 acre-feet. I think that was what the gentleman was referring to earlier, and I may have been misleading in my answer. That is the program that we are talking about subject to the independent review.

Mr. DASCHLE. It appears to me that if you are going to put all this into the WRC—given the vast array of different kinds of projects—you may be undermining the very capability that Mr. Martin was addressing a minute ago in talking with OMB by dwelling on projects of a very small scope.

Would it not be in your interest to perhaps exempt the small watershed program from the authority of the WRC? Would it not give you more flexibility and clout with which to deal with those issues that may conflict with OMB?

Mr. UNGER. I feel that we have adequate flexibility in our Public Law 83–566 program to meet the kinds of needs that Congress has asked us to meet in passing that legislation.

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What we are really talking about in the independent review is making sure that all the agencies are using the same yardsticks—that when we evaluate recreation benefits all three agencies are using the same system of evaluation.

Mr. DASCHLE. You do not consider the ACP program in your reviews, is that correct?

Mr. UNGER. That is correct.

Mr. DASCHLE. So already you have drawn some kind of an arbitrary line?

Mr. UNGER. In the ACP program and in our conservation technical assistance program in the Soil Conservation Service there are many individual decisions and portions of programs that have an affect on water resources generally. The individual actions are so small, however, that it seems unreasonable to subject those programs to this kind of a planning procedure.

The watershed program does involve the construction of rather large dams and has the potential for large public works projects. We feel it is large enough to be subjected to the same kind of standards as the other construction agencies.

Mr. DASCHLE. Thank you.

Mr. JONES of Tennessee. Thank you, Mr. Daschle. Mr. Hopkins, do you have some questions?

Mr. HOPKINS. Yes. Thank you, Mr. Chairman.

Looking at the summary of H.R. 2610, I notice that the bill is increasing from $3 million to $20 million the amount appropriated annually for grant programs to assist the States.

Using the $20 million figure and coming on down to the appropriation of $1 million authorized to administer it, do you really feel that 5 percent is not too high?

Mr. EISEL. What happened is that the orginally requested amount was $50 million and we would have been able to use up to 2 percent of that amount to run the program.

During the hearings in the House Interior Committee, that was reduced to $20 million and rather than put in a figure such as 2 percent they essentially said $1 million.

Mr. HOPKINS. Using 2 percent, yes; but this very clearly calls for 5 percent. That seems to me a considerable amount over your 2 percent. Do you plan on hiring more people or are you setting up more bureaucracy?

Mr. EISEL. The difference between the $20 million grant program and the $50 million grant program would still involve the same number of States and applications so perhaps there could be the possibility of reducing slightly, but the kind of review and monitoring required to put out that grant program will be about the same.

I would like to point out, however, that the $20 million and the $1 million were not our figures. They were put in the previous markup.

Mr. HOPKINS. Do you feel this is too high or low? What is your opinion? The 5 percent sounds high to me.

Mr. EISEL. We have not looked into whether there could be a reduction in staff for the smaller grant program. We would like to actually support the orginal $50 million request as being necessary to bring the State water management program to the level desired.

Mr. HOPKINS. Do you plan to increase your staff?

Mr. EISEL. For the $20 million grant program?

Mr. HOPKINS. Yes.

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Mr. EISEL. Yes, sir.

Mr. HOPKINS. Will you tell me by how much?

Mr. EISEL. At the present time this is an extension of the title III grant program at the Council which has been running between $3 to $5 million annually and we have had a staff of about five or six people who administer that program. We will go to 11, I think, for the $20 million or the $50 million program.

Mr. HOPKINS. Are you going to increase your staff 300 or 400 percent or more?

Mr. EISEL. No. We are going to go from about 5 or 6 people at the present to a total of 11—roughly doubling or about 100 percent—from the present $3 million program to the $50 million level which was orginally proposed.

Mr. HOPKINS. It would appear to me to be a little on the high side to use 5 percent of the total amount of $20 million.

Could you give me the cost of your independent review?

Mr. EISEL. Yes. That is budgeted for $1.5 million with a staff of about 35 people, which will consist of 28 professionals and 7 clerical.

Mr. HOPKINS. That is all I have, Mr. Chairman. Thank you very much.

Mr. JONES of Tennessee. Thank you, Mr. Hopkins.

Mr. Harkin, do you have anything?

Mr. HARKIN. No; I do not. Thank you, Mr. Chairman.

Mr. JONES of Tennessee. Gentlemen, do you want to take another round of 5 minutes each? Do you have any more questions? What are your wishes?

Let's try for another 5 minutes. I have some, too, that I would like to ask.

My first question is for Mr. Martin and Mr. Unger.

Both statements you gentlemen made seem to indicate that this bill is being advanced by the administration to reorganize the water programs and then to place them under the jurisdiction of the Secretary of the Interior.

This subcommittee has worked hard to see to it that we have not had to go through some reorganization, and we were delighted the administration decided not to seek the establishment of a Department of Natural Resources.

We are convinced that the Department of Agriculture is operating quite well as it is, today. We like it as it is.

It seems to me that H.R. 2610 is an effort to get the reorganization goal back on track and that it reduces the authority of the Department of Agriculture.

I would like both Mr. Martin and Mr. Unger to comment on this.

Mr. MARTIN. I will leave the comment on the Department of Agriculture to Mr. Unger.

Let me say that, if you are comfortable with the way things are, you should be comfortable with this bill, because it proposes no reorganizational change whatsoever. It simply continues the status quo with respect to the Water Resources Council.

Mr. UNGER. We would agree with that interpretation. The bill does, in addition to continuing the current status of the Council, add these increases in the technical assistance grants to the States and the planning grants to the States. It does change to that extent, but that is not a major organizational change of any kind.

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The plan to use the independent review function would not be specifically part of this legislation, but it is definitely the plan of the administration.

Apart from this legislation, we feel it would supply valuable information and checks that would be useful to us in our review of projects and would serve the public generally.

Mr. JONES of Tennessee. Mr. Unger, are you strongly in support of H.R. 2610?

Mr. UNGER. Yes.

Mr. JONES of Tennessee. One other question I would like to ask, gentlemen, is why Congress should support H.R. 2610 when it is strongly opposed to the natural resources reorganization.

Mr. MARTIN. We think, just as you said in your introductory remark, Mr. Chairman, that you are comfortable with the way things are set up.

This, as we see it, makes the very best use of the structure. The Water Resources Council, as we have tried to point out, has been, and can be, an important part of that structure. What we think we have done here is propose things that strengthen the continued work of this Council without proposing a reorganizational step.

We think, therefore, that Congress, in looking at coordination of water resource management and in passing this original act, should still feel comfortable with continuing the work of the Council.

Mr. JONES of Tennessee. I have two or three items that I did not get to before.

Mr. Martin, is it true that in the case of the Bureau of Reclamation's water project proposals, the Secretary of the Interior will not only have the power to approve projects in his role as Secretary but also in his role as Chairman of WRC?

Mr. MARTIN. Let me be very clear on that again, Mr. Chairman. The Secretary of the Interior has no role whatsoever in the independent project review. His role will be identical to that of the Secretary of the Army or the Secretary of Agriculture in that he will oversee the preparation of projects by the construction agencies in his purview. He will approve those through the ordinary processes of his Department and he will submit them to the Water Resources Council for the independent project review. That review will be carried out by Council staff. It will be based on a publicly created set of standards that are publicly documented, and there will be no vote of the Council and no supervision of the Secretary of the Interior or any other Secretary.

Mr. JONES of Tennessee. What is the administration's opinion of creating a technical review board completely independent of Federal departments whose agencies submit water projects for technical review?

Mr. MARTIN. We considered your proposal very seriously. In coming up with this procedure, we think we have made the need to do that unnecessary by completely insulating the policy leaders from any of the departments from the review my making it a staff technical review.

As I indicated the other day at the hearing before the Public Works Subcommittee, if we can work out a way to preserve the Water Resources Council and authorize it in the future, we will be happy to work with Congress and this subcommittee to look at ways to make sure that the review that we contemplate is truly insulated, in your view, from any influence.

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We think we have already done it, but we are not unwilling to look at new ideas.

One of the reasons we rejected creating a new body is simply that we were as concerned about the added bureaucracy as you are. The President absolutely does not want another executive agency in the White House.

He would rather have the Water Resources Council's staff expanded to do this job and not create a new agency and a new, separate bureaucracy for this purpose.

Mr. JONES of Tennessee. Mr. Sampson, my time is about up, but I have a question or two I would like to ask you.

How do you feel the Agriculture interests can best be represented in the administration's national water policy?

Mr. SAMPSON. I think one of the things that we pointed out is that we do feel that the independent chairman idea is a good one.

I was not in that recommendation accusing Mr. Martin or anyone over at Interior of using that position unfairly. I simply think the public perception of independence that has been created around the country is very important, and I think the agricultural interests would feel that WRC was a much more independent unit if it did have an independent chairman.

Mr. JONES of Tennessee. In consideration of the fact that over 80 percent of the water that is consumed nationally is consumed by agriculture, do you not think the Secretary of Agriculture should have a larger role in forming water policy?

Mr. SAMPSON. The Secretary of Agriculture should have a very strong role with 83 percent of the consumptive use of water in this country going to agriculture and what we see as a resource crunch coming on. We think that keeping the Secretary of Agriculture as a very strong participant in the water field is very vital to the national interests.

Mr. JONES of Tennessee. Thank you, Mr. Sampson.

Mr. Madigan?

Mr. MADIGAN. Mr. Chairman, I would like to go back to the statement of Mr. Unger, which at one point says, "In our small watershed program, we have installed over 6,000 dams for a variety of purposes, and we have helped farmers install nearly 40,000 small ponds. "That is on page 2. On page 4 it says, "Most of our small watershed projects would be subject to this review."

When I raised the question about this, Mr. Unger, I understood you to suggest that the farm ponds would not be subject to review.

Mr. UNGER. That is correct, and I agree that that statement is misleading. It should read, "In our small watershed program, we have installed over 6,000 dams for a variety of purposes." Then it would be more clear if we said, "The Department of Agriculture has also helped farmers install nearly 40,000 small ponds." The small ponds have not been installed as part of the small watershed program, and if this leaves that impression, it is incorrect.

Mr. MADIGAN. Thank you very much. Can you now tell me what the smallest project you are involved in would be that would be subject to the review of the WRC?

Mr. UNGER. Let me ask Mr. Haas to describe the acre-foot size of the dams that are included in the Public Law 83–566 program that would be subject to the review.

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Mr. HAAS. The smallest project that would come to the Congress would be any project that has a single dam in it in excess of 2,500 acre-feet of storage as far as size is concerned. There is also a requirement that if the project exceeds $1 million in Federal cost share it would also come to the Congress.

Mr. MADIGAN. Let me see if I understand what that is. An acre-foot 1 foot deep?

Mr. HAAS. That is correct.

Mr. MADIGAN. Then an area 25 feet by 100 feet with 1 foot of water standing on it would be subject to this review?

Mr. HAAS. Yes, I believe that is correct.

Mr. MADIGAN. That is a pretty small project, is it not? That is a 1-acre pond, 25 feet by 100 feet with 1 foot of water on it, is it not?

Mr. HAAS. Yes; but let me clarify the size. We are talking about acres, not linear size—2,500 acres, 1 foot deep.

Mr. MADIGAN. 2,500 acres covered by 1 foot of water?

Mr. HAAS. That is correct, or 1,250 acres covered by 2 feet.

Mr. MADIGAN. Or 625 feet covered by 4 feet?

Mr. HAAS. That is correct.

Mr. MADIGAN. Or, if it were 8 feet deep it would be 30 feet by 100 feet?

Mr. HAAS. Yes.

Mr. MADIGAN. 30 feet wide and 100 feet long and 8 feet deep?

Mr. HAAS. No; I'm sorry, we are confusing feet and acres again. It would be 312 acres. There are 43,560 square feet in 1 acre——

Mr. MADIGAN. I understand that, but if you are talking about acre-feet of water, the depth of the water must be a factor; must it not?

Mr. HAAS. Yes, sir.

Mr. MADIGAN. Then as the depth of the water increases, do not the dimensions decrease?

Mr. HAAS. Yes, sir.

Mr. MADIGAN. So with 8 feet of water we could get down to something that would be 30 feet by 100 feet. Would it still have to cover 312 acres, even if it were 8 feet deep?

Mr. HAAS. It would still have to be 312 acres surface area if it were an average of 8 feet deep; yes.

Mr. MADIGAN. If it was an average of 1 foot, what would it have to be?

Mr. HAAS. It would have to be 2,500 acres surface area.

Mr. MADIGAN. And it would have to be 312 acres if it were 8 feet deep?

Mr. HAAS. That is correct.

Mr. MADIGAN. Or if it cost more than $1 million, it would come under this review, is that correct?

Mr. HAAS. That is correct.

Mr. MADIGAN. I thought the statement of the gentleman from California, Mr. Panetta, was a very thoughtful statement. About the only disagreement that the chairman of this subcommittee and I had up here with Mr. Panetta's statement is that we feel the water crisis is already here.

One of the problems that I have is to watch 35 inches of rain fall in the Midwest every year and see it go into Salt Creek and then the Sangamon River and other tributaries of the Mississippi River and finally down to the Gulf of Mexico, where a former colleague on our

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committee used to thank me each year for the fact that Louisiana is the only State in the Union that is growing with the topsoil from the Midwest being carried off by this rainfall.

I would like to believe that one of the answers to this water crisis is the construction of these small and medium-size water impoundments in the States of Iowa, Wisconsin, Illinois, and other places in the Midwest.

It seems to me that what we are considering here is a process which will make that more difficult and more expensive to accomplish by having to submit all of those projects to another layer of the Federal Government for additional review.

I could support that if I thought, Mr. Unger, that what you and your people have done has been incompetent, but I do not believe that. I see the results of it, and I think your work has been very competent, and I do not see the need for this additional thing to be put upon it.

The best answer you have given today is that there ought to be a uniform Federal policy for all water projects, small or large. That is not an adequate answer for a Member of Congress, because we delineate between small and large cities, between small and large farms, between small and large businesses. We make that distinction all the time, and I do not understand why we cannot continue to make the distinction between small water projects and large water projects.

No one has to tell me about the abuses of the Army Corps of Engineers. I opposed the Alton Lock and Dam, which was supposed to benefit the area that I represent. I have opposed other Corps of Engineers projects and I will in the future, because I think there is a lot of abuse there. But, in the absence of being shown any abuse in these Agriculture-funded programs, I simply am not going to support this.

Thank you very much.

Mr. JONES of Tennessee. Thank you, Mr. Madigan.

Mr. Baldus, do you have any questions?

Mr. BALDUS. No. Thank you, Mr. Chairman.

Mr. JONES of Tennessee. Mr. Bedell do you?

Mr. BEDELL. It would be helpful to me, although it has nothing to do with this bill, to have the 160-acre limitation straightened around. Apparently there are some difficulties with the legislation that prevent you from properly enforcing the 160-acre limitation. Could you explain this?

Mr. MARTIN. When this administration came into office, there was in progress a lawsuit challenging the enforcement of the excess land 160-acre limitation Provision and Reclamation Act. That lawsuit, which we agreed with in part, raised the question as to whether or not there had ever been proper enforcement.

The way to gain proper enforcement is by promulgating regulations which state specifically what that law calls for. We acted very promptly to prepare and to propose those regulations. We held hearings on them and took comments and the regulations are still in preparation. We are enjoined from putting those regulations out in final form until we have completed an environmental impact statement. This is exactly what we are proposing to do.

At the same time that that work is going on, we have proposed legislative changes which we believe would tighten up the law and

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make it more responsive to modern needs than the original law does. That, as you know, is a matter of some controversy and there are people on both sides of us on that legislation.

Mr. BEDELL. Is there somebody that says that an impact statement has to be done—that environmental impact would be greater if you enforced the law than if you did not?

Mr. MARTIN. There is, in fact, a court decision ordering us to prepare an environmental impact statement.

Mr. BEDELL. The court has ordered you to do that?

Mr. MARTIN. Yes, sir, the Federal district court.

Mr. BEDELL. How long will that take?

Mr. MARTIN. That work will not be completed until the end of 1980.

Mr. BEDELL. You mean you cannot prepare an impact statement until the end of 1980?

Mr. MARTIN. The environmental impact statement is a totally unique document. I have never seen anything like the work it asks to be done. It involves some 25,000 interviews. What we have to look at is the individual impact of basically changing farming patterns in virtually all of the Western States.

Mr. BEDELL. Did the court order you to take 25,000——

Mr. MARTIN. No, working with the Council, the Department of Interior designed—as we do for every environmental impact statement we have to do—a process that we thought would be within the law.

Mr. BEDELL. So the court did not order you to take 25,000 interviews or to take until the end of 1980, but your Department decided that that was what you had to do based upon the ruling of the judge, is that correct?

Mr. MARTIN. We are putting that impact statement together as fast as we think we can do it and produce the legal documents.

Mr. BEDELL. You think the fastest you can do it is the end of 1980?

Mr. MARTIN. That is correct. We are hopeful, however, that Congress will legislate to change that law before that time. That, of course, is the real answer as far as we are concerned.

Mr. BEDELL. I am just a layman, and this is hard for me to understand.

Mr. MARTIN. Mr. Bedell, let me just say again that trying to write regulations and analyze them through an impact statement on the original law is an extraordinarily hard process.

The law is not clear. It is vaguely written in many instances and has not been amended in many years. The real answer to this problem, without regard to impact statements or regulations or anything else, is for Congress to take action.

Mr. BEDELL. Is there a movement at this time in the Department of the Interior to correct the law?

Mr. MARTIN. We have very comprehensive recommendations for changes.

Mr. BEDELL. I yield to Mr. Panetta.

Mr. PANETTA. This is an extremely complex area and the problem is there is a court decision that is involved here that mandates certain requirements in the Department. At the same time the Department has proposed changes in the reclamation law along with a number of other proposals that are now before the Interior Committee.

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The problem is that as long as court action is pending the tendency would be to not move ahead with reclamation changes. They are throwing the ball back and forth between the courts and Congress.

I think, without question, the Congress has a responsibility to act in this area, but it is obviously a very sensitive area, particularly in the far west.

Mr. BEDELL. I have to assume if a law were passed for a 160-acre limitation that was not enforced and people benefited from this they would be people who had more than 160 acres to be irrigated.

I also have to assume that there may be some reluctance to attack those larger landowners by either the Congress or the Department.

Mr. DASCHLE. As far as I can see there is no reluctance on the part of the Department.

I guess the question is since the history and reclamation has been a history of going by various rules and various revisions going beyond the 160 acres, how do you restore the initial intent of that law?

Mr. MARTIN. Yes. Let me complement that by saying the problem with enforcement of the existing law is very difficult. For example, one of the classic ways to avoid the basic intent of the law is the so-called "leaseback" arrangement, where a person may own only 160 acres but by a series of leases have effective beneficial ownership of thousands of acres.

The law is not clear as to whether or not that "leaseback" arrangement is legal or not. Our opinion is—and we state it in the proposed regulations—that farmers should not be able to do that.

We are now stayed in making those regulations by the court order. The answer is, however, not for us to interpret the law through regulations, but for Congress to act on the subject.

Mr. BEDELL. That is the Interior Committee that would handle that?

Mr. MARTIN. It would be the Interior Committee in the House and Energy and Natural Resources Committee in the Senate.

Mr. BEDELL. Thank you.

Mr. JONES of Tennessee. Thank you, Mr. Bedell.

Mr. Hopkins, do you have any additional questions?

Mr. HOPKINS. Is it safe to say, Mr. Martin or Mr. Unger, that it is your desire to get OMB out of the study business?

Mr. MARTIN. Our desire is to supplant much of the OMB review by this independent review.

Mr. HOPKINS. Mr. Sampson, in your statement on page 2 you stated that, "Right now we have the situation where projects are virtually viewed to death. Time and expense and the proper procedure has stopped many excellent projects and made others vastly more expensive."

I wonder if you would provide us with some examples and figures——

Mr. SAMPSON. I can provide those at a later time if you like. I do not have them on the tip of my tongue.

Mr. JONES of Tennessee. Thank you, Mr. Hopkins. Mr. Panetta?

Mr. PANETTA. Just to follow up on something Mr. Madigan suggested, one of the dangers I see in this is the same problem we had with OSHA and other areas. You are targeting a particular series of abuses or are trying to coordinate certain policies and the thing suddenly becomes overencumbered by the fact that you are bringing so much

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into it. At that point, you either have to develop a tremendous bureaucracy to deal with the volume of work you are trying to do or attack someone's pond that is being built and allow a huge project to go by because you are spending the time trying to fight that battle.

Sometimes the bureaucrats find it easier to fight small projects than bigger ones where there are obviously special interests involved.

I wonder if you have not given some consideration to perhaps limiting the review process to projects that are over a certain amount?

Mr. UNGER. We are not in any way proposing to add any class of size of USDA projects that is not already subject to the principles and standards right now and not already being reviewed by OMB for conformance with some of these planning standards.

All we are saying is, let's take that function away from OMB and put it over in this other place and staff it so that it can be done properly and give it a time limit and make sure that it is done in public view. We are not adding anything to be done.

Mr. MADIGAN. Would the gentleman yield?

Mr. PANETTA. I would be pleased to yield.

Mr. MADIGAN. Is not what you are saying a very current thing. Is this not something that has come about since the President's Executive order as opposed to since 1954 or 1965?

Mr. UNGER. The idea of the independent review is certainly new, but the fact that we are already in our watershed program subject to the principles and standards and planning manual and that a review is conducted in OMB has been going on for many, many years.

Mr. PANETTA. The OMB does not view a formal statement as a finding, do they?

Mr. UNGER. That is correct.

Mr. PANETTA. They do not?

Mr. UNGER. That is correct.

Mr. PANETTA. To that extent the Water Resources Council will be doing a formal review which will contain findings and that report will in turn be presented to OMB.

My concern is, if you are going to be doing the kind of smaller projects that you are talking about, that will be the best use of time and administrative resources. If you spend your time with some poor farmer, I can tell you right now you are going to cut whatever political support you have for this, because the main thrust, as I see it, of coordinating policy deals with major projects that have a significant amount of money and people, such as the water projects that came before Congress in the last session.

I think that is what ought to be targeted.

Let me ask you this. The Executive order was issued on April 1, 1979. Have you begun the review process?

Mr. MARTIN. No, sir. The situation there is that in order to begin the review we have to do several things. We have to establish a procedures review which is now out for public comment. We do not think that is a problem. We also have to reprogram funds this year in order to start it. That reprograming request, as you know, is approved at the subcommittee level in the Appropriations Committee. It has been approved in the Senate, but it has not yet been approved in the House. In effect we cannot begin until that is done and we are still working with the Public Works Subcommittee to get that done.

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Mr. PANETTA. You also have this series of guidelines to be issued as well, is that correct?

Mr. MARTIN. Yes.

Mr. PANETTA. You will then base your review on whether there has been adherence to the guidelines that have been issued by the Water Resources Council?

Mr. MARTIN. That is right. We will base it on whatever is the formal standard—the lawfully adopted standard at the time. We will use the principles and standards as they now exist so long as they exist. If the revisions we have proposed go through the public process and are adopted, we will use those.

Mr. PANETTA. I take it then you are now waiting for approval by Congress to begin implementing the preprograming. Then there is the problem of what guidelines you will use—the existing guidelines or the larger changes you are working on. Finally, there is the problem of, once that is in place, issuing instructions to all the various agencies and departments to make sure that whatever problems they are working on somehow funnel through the process.

Mr. MARTIN. That is covered in the Executive order itself.

Mr. PANETTA. That is in the Executive order right now?

Mr. MARTIN. Yes.

Mr. PANETTA. Then it will funnel through your operation and then to OMB?

Mr. MARTIN. It will go to WRC. The report would actually be transmitted back to the sponsoring agency who would either advance it to OMB or——

Mr. PANETTA. Is the review process and revision a hearing-type approach whereby the departments will make the case to defend the projects that go before the Water Resources Council?

Mr. MARTIN. It basically envisions an approach in which the staff who takes it would work mostly on written documentation but would consult with the agency as necessary.

There would be no formal hearing, but there would be a consultation—a face-to-face discussion.

It contemplates public review and commentary but not a hearing process. The tradeoff there is that to build in a public hearing process adds time.

Mr. PANETTA. Internally, if WRC took a position in opposition to that project or the revisions to that project, that recommendation would proceed to OMB. Who would be the ultimate arbiter in what proceeds, OMB?

Mr. MARTIN. The President through OMB.

Mr. PANETTA. To some extent OMB would be fed the documentation from WRC which is the documentation from the Department and then would have to——

Mr. MARTIN. In a situation where you had a project that had a statement of findings in which there were some problems but which the sponsoring agency disagreed with, there would have to be conflict of resolution.

As I said, the difference that we think is the key is that for once that would be put out in the open rather than letting OMB have the discussion with us as they do now in a budget session.

Mr. PANETTA. Thank you.

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Mr. JONES of Tennessee. Thank you, Mr. Panetta. Thank you, gentlemen.

I think the subcommittee has taken enough time for questioning now, however there are some questions, gentlemen, that have not been asked yet.

I would like to ask any member of the subcommittee who has more questions that he would like submitted to these witnesses to give them to the staff this afternoon for submission to the witnesses. Then, we would appreciate answers to them as soon as possible, because we plan to mark up this bill at 10 a.m., next Tuesday.

Thank you very much for being with this subcommittee.

The subcommittee stands adjourned.

[Whereupon, at 12:30 p.m., the subcommittee was adjourned.]

[Additional material submitted follows:]

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DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

Honorable Ed Jones
Chairman
Subcommittee on Conservation and Credit
Committee on Agriculture
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

As requested by your letter of June 15, 1979, we are enclosing our written responses to several questions that, due to lack of time, were not asked during the recent hearing before your Subcommittee.

Sincerely,

DAVID G. UNGER
Deputy Assistant Secretary for
Conservation, Research and Education

Enclosure

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1. Describe the USDA review and approval procedure for Public Law 83-566 projects as currently conducted. What in your opinion is deficient in this procedure? On average, how long does it take to complete the review?

Following authorization to the Soil Conservation Service's State Conservationist to plan a watershed project, the sequence of review and approval steps for the project plan are as follows:

(1) The watershed planning staff, under the direction of the State Conservationist (STC), assists sponsoring local organizations prepare a watershed plan. During the planning process, technical assistance is provided to the State staff from the Technical Service Center (TSC) Technical specialists involved in the planning process include engineers, economists, biologists, recreation specialists, agronomists woodland specialists, environmentalists, geologists, sedimentation specialists, etc While preparing the draft plan, input and comments are solicited from all interested State and Federal agencies, organizational groups, and the general public. Public meetings are also held throughout the planning process.

(2) After completion of the draft plan, it is sent to the TSC for formal technical concurrence All technical specialists involved with the plan thoroughly review the plan, and environmental impact statement, if needed, to assure a technically sound plan. At the same time that a project plan is reviewed at the TSC level, copies are forwarded to the Washington level. Discipline specialists in Washington consult with their counterparts at the TSC regarding technical aspects as may be needed. The plan is also reviewed by the Department's Forest Service and the Office of the General Counsel. The SCS Watersheds Division provides a policy overview. The Washington Office completes its review and transmits its comments to the TSC prior to the TSC providing comments and concurrence to the State.

(3) The State Conservationist transmits the draft plan to State and Federal agencies, organizations, and individuals for review and comments interagency review). The plan is sent to agencies and groups such as Governor(s clearinghouses, Environmental Protection Agency (EPA) Corps of Engineers, U.S Department of the Interior, U.S. Department of Commerce, U.S. Department of Transportation, Office of Equal Opportunity, Advisory Council on Historic Preservation, U.S. Water Resources Council, Natural Resources Defense Council, Friends of the Earth, Environmental Defense Fund National Wildlife Federation, National Audubon Society and all other groups or individuals who have shown interest in the project.

During the interagency review, EPA also publishes a notice of the availability of the draft plan and EIS in the Federal Register When requested, the TSC then helps the State incorporate or resolve all comments received. Working with the sponsors and the general public, a final plan and EIS is prepared. This document is reviewed by the TSC. Following TSC concurrence, the Administrator authorizes

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the State Conservationist to sign the watershed plan agreement with local sponsors. EPA publishes the availability of the final plan and EIS report in the Federal Register. Thirty days after publication in the Federal Register, the State Conservationist prepares a statement of findings and then signs the watershed plan agreement with the sponsors. The signed plans are then forwarded to the Department for transmittal to the Office of Management and Budget (OMB) requesting submission to appropriate congressional committees for their approval. Prior to transmitting the plan to OMB, the departmental Office of Budget, Planning and Evaluation (OBP&E), and Office of Environmental Quality review the plan to assure consistency with Secretary's policies.

In addition to reviews at various levels within SCS, the current review process involves considerable input and review from local sponsors, organizational groups, the general public, and State and Federal agencies. The review and approval process is considered adequate to assure a viable watershed plan which meets policies and requirements of the Watershed Protection and Flood Prevention Act, the U.S. Water Resources Council's Principles and Standards, Presidential Executive Orders, Environmental Statutes, etc. We are unaware of any deficiencies in the current review process except that it does not assure consistency in evaluation procedures among agencies involved with planning water and related land resource projects. The enclosed flow chart shows the major steps in the review process from the draft plan stage to approval resolutions by committees of Congress.

From the time a draft watershed plan is completed, the review and approval process has been averaging about 8 to 12 months.

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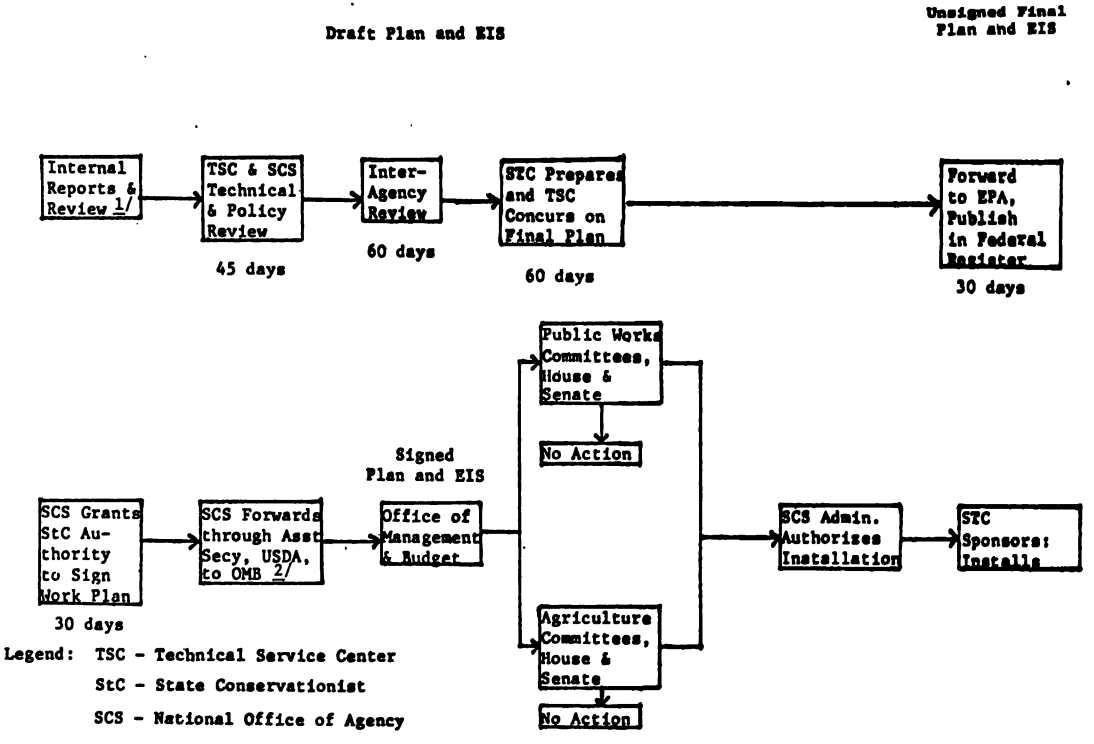

CURRENT REVIEW PROCESS

SOIL CONSERVATION SERVICE

U.S. DEPARTMENT OF AGRICULTURE

1/ Draft Plan.

2/ Includes: USDA Review.

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2. How do you view the leadership role being given the Water Resources Council affecting USDA's ability to represent agricultural interests in national water policy? What opportunities exist at the subcabinet level for USDA experts to actively participate in the Council's work?

There are times when the Secretary of Agriculture would be more responsive to the needs and concerns of the agricultural industry in water policy considerations, if he could make such decisions independently Of course, this is true of practically all of the Cabinet Members and there is some value in tempering policy decisions with recognition of the whole range of national needs and concerns In the U.S. Water Resources Council (WRC), Agriculture is one of eight members. We take great care to properly represent the positions and needs of the agricultural community. In our view it is essential that we do this since the agricultural community cannot expect representation from any of the other Council members

The President's water policy deliberations were assigned to the WRC, Council on Environmental Quality (CEQ) and Office of Management and Budget (OMB) jointly under the WRC leadership. In the interest of time and effectiveness it was necessary for the U.S. Department of the Interior to take a strong lead in practically all facets of the water policy review and development The U.S. Department of Agriculture participated actively in all those areas of concern to agriculture and/or USDA programs. We exercised our water policy role in decisions regarding new policy through our membership in the Council

The role of agency staff in the Council's work has changed somewhat from what it was in previous Administrations. Most of the Council's standing committees were phased out and we formed special purpose task forces on a need basis. Such groups have been assembled from the member agencies for such special tasks as preparation of improved planning procedures, called for in the President's water policy proposal.

3. The USDA has a legislative charge to promote rural development. Taking into consideration the low cost-to-benefit ratio of some sorely needed projects, will the new Principles and Standards Manual allow the use of these benefits to justify projects?

The U.S. Water Resources Council s procedural manual allows only National Economic Development (NED) benefits to be used for economic justification of a project. To the extent that NED benefits also serve rural development objectives, they can and will be used as benefits to justify projects. These rural development benefits which are regional in nature may not be used in computing the benefit-cost ratio, but will be displayed in a regional development account in the plan to give support for projects with marginal benefit-cost ratios.

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4. As one of the principal conservation agencies, what is USDA's interpretation of water conservation? What definition of water conservation do you interpret from H.R. 2610?

Historically USDA s interpretation of water conservation has been quite broad. We have considered all elements of water management that contribute to the wise and efficient use of the water resource including storage and the development of new supplies Although the President has excluded supply development as an element of water conservation he still recognizes it as an important and valued management tool Therefore, we can relate our activities and programs to the President's initiative for water conservation.

The definition of water conservation is provided in Section 306(4) of H.R. 2610. We interpret this definition to exclude assistance for new or additional water supplies, except as might be achieved through improved land management practices and other soil and water conservation practices which improve the efficiency of agricultural water use.

5. How can you explain the exclusion of water storage in the definition for water conservation as related to the President's water policy initiatives? Are supply management practices, such as vegetative management and groundwater recharge excluded in the President's water policy initiative definition of water conservation?

We understand that water storage was excluded from the definition of water conservation to give emphasis to policies and practices which would reduce the need for new or additional supplies Such new or additional supplies often involve costly structures that may further increase demands, waste, and take away from instream flows. We can accept the definition of water conservation for implementing the President s water policy initiatives since supply development continues to be recognized as part of comprehensive water management

The President's water policy initiative definition of water conservation included "(c) improve land management practices to conserve water." We would interpret this to include vegetative management and groundwater recharge practices so long as the practices are cost effective, the benefits outweigh the environmental impacts, and extensive structural works are not involved.

6. Will the $10 million water conservation technical assistance grants to States facilitate or compete with USDA water conservation assistance programs? In what ways will it facilitate or compete?

We expect a mixed response in this regard, but we also expect that the two efforts will be compatible and complementary To the extent that States can cooperate with matching funds, the U S. Department of Agriculture strongly supports the proposal for water conservation technical assistance grants.

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Historically, USDA agencies, particularly SCS, have had the Federal lead responsibility for onfarm water management, including irrigation water management. Our efforts in this regard are generally well recognized and appreciated by State and local Governments. We feel sure that the great majority of administering State agencies would sincerely seek to cooperate and coordinate their program with the ongoing work of USDA.

The proposal provides for the option of passing through the grant funds to local Governments for water conservation technical assistance. In this case too we feel confident that our expertise is recognized and our work is appreciated to a degree that the ordinary case will result in programs coordinated to the point that they are not duplicative. This is particularly true in rural and agricultural counties As an example of one type of cooperative effort that we foresee. we are hopeful that some of the pass-through funds will go to Soil and Water Conservation Districts for implementation of the program in the agricultural community

Conceivably some States could set up a strong central State program for water conservation technical assistance separate from and uncoordinated with USDA programs In primarily urban States this could go on with minimal duplication of effort. If it happened in a Western State where the greatest water conservation potential is in agriculture, it could be expected to result in duplication and, probably, some contradictory effort. Similar situations could occur through the pass-through feature if the funds went to a local Government unit which choose not to coordinate with USDA agency efforts.

7. In general, how do you feel that the agricultural interests can best be represented in administration of the Nation's water policy?

Agricultural interests are adequately represented by our participation at the policy level in the deliberations of the U.S. Water Resources Council. In general, the Assistant Secretary level of the eight member agencies plus the Chairmen of the River Basin Commissions meet about every 6 weeks to consider substantive policy issues The Office of Management and Budget, the Council on Environmental Quality, and the U.S. Department of Justice are also present as observers and participate in the discussions. We feel that USDA has ample opportunity to make its views known at the conference table and to participate at the staff level in drafting legislative proposals and major policy documents. Without the U S. Water Resources Council, we would have greater concern about the impact of USDA views in establishing national water policy.

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UNITED STATES WATER RESOURCES COUNCIL

SUITE 800 • 2120 L STREET, NW WASHINGTON, DC 20037

JUN 18 1979

Representative Ed Jones
Chairman
Subcommittee on Conservation and Credit
Committee on Agriculture
U.S. House of Representatives
Room 1301
Longworth House Office Building
Washington, DC 20513

Dear Chairman Jones:

Please find enclosed a response to the questions detailed in your letter of June 15 to Assistant Secretary Guy Martin.

Thank you for this opportunity to provide you with additional information.

Sincerely,

/s/ Leo M. Eisel

Leo M. Eisel
Director

Enclosure

MEMBERS: SECRETARIES OF AGRICULTURE, ARMY, COMMERCE, ENERGY, HOUSING AND URBAN DEVELOPMENT, INTERIOR, TRANSPORTATION; ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY - OBSERVERS: ATTORNEY GENERAL; DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET; CHAIRMEN, COUNCIL ON ENVIRONMENTAL QUALITY, TENNESSEE VALLEY AUTHORITY BASIN INTERAGENCY COMMITTEES; CHAIRMEN AND VICE CHAIRMEN, RIVER BASIN COMMISSIONS

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WRC RESPONSE TO
SUBCOMMITTEE ON CONSERVATION
AND CREDIT QUESTIONS

JUNE 18, 1979

QUESTION 1. How are land resources considered by the Water Resources Council in determining water resources needs of the future?

REPLY The WRC is actively involved in the determination of future water resource needs through its on-going assessment activities. Such needs are identified through an integration of water supply and demand information taking into account both water quantity and quality.

The physical characteristics of land, together with its use, affect both the quantity and quality of surface and groundwater supplies. Land use and the supporting economic activities which it generates are major factors in the demand for available water supplies. Whereas the interrelationships between the natural social and economic systems involved are imperfectly understood, the on-going assessment activities of the WRC represent the only nationally consistent effort to date to integrate water supply and demand. The Department of Agriculture plays a major role in the development and use of the Assessment data.

QUESTION 2. The Water Resources Planning Act states that: "The Council shall maintain a continuing study and prepare an assessment biennially or at such less frequent intervals as the Council may determine, of the adequacy of supplies of water necessary to meet the water requirements in each water resource region in the United States and the national interest therein."

Is it true that in its 14-year history, the Council has completed only two such assessments? What is the Council doing in long-range planning to assure that the water and land needs for agriculture will be satisfied in the year 2000 and beyond?

REPLY Publication of the Second National Water Assessment will be completed this summer. A copy of the Summary which was published earlier this year is enclosed for your information. The WRC has completed two National Assessments, the first in 1968 and the second this year. The suggested biennial publication of the assessment is too frequent since there is not sufficient change in the status of problems of the Nation's water resources during a two-year period to justify publication of an assessment. The Administration has sent legislation to Congress in May which, among other things notes this problem and eliminates the biennial language in the existing Water Resources Planning Act.

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With respect to the future, the on-going assessment activities of the WRC have been restructured to allow for greater consideration of policy and program options in meeting the Nation's future water demands. Future work will focus on specific problem areas, e.g., ground water availibility. Substantial emphases will be placed on the identification of issues as a starting point to guide later assessment activities. As the remaining volumes of the Second Assessment are published this summer, additional staff resources will become available for designing and implementing the continuing assessment.

In addition to the assessment activities, the WRC has a substantial planning effort to help insure that the water and land needs will be satisfied in the year 2000 and beyond. This effort includes a series of regional water resources studies ("Level B studies" and "Special studies") which are done in coordination with the States, River Basin Commissions and other Federal agencies. At present, the Council has 14 Level B and special studies in progress for:

Cumberland River Basin
Hudson River Basin
Allegheny River Basin
South Central Alaska
Snohomish River Basin
Upper Mississippi River Basin in Montana
Lake Champlain
Upper Mississippi Main Stem
New England Hydropower Special Study
Great Lakes Environmental Planning Study
Yadkin-Pee Dee River Basin
New England Port and Harbor
Susquehanna Basin Groundwater Study
Delaware Basin Groundwater Study

In FY 1980, three additional studies are planned for implementation:

Missouri River Basin Hydrology Study
Lower Meramec River Floodplain Management Study
Cape Fear River Basin

The purpose of these studies is to develop solutions for present and future water resources problems. These solutions will involve proposed programs and projects of many Federal and State programs working in a coordinated fashion. These regional water resources studies provide the opportunity for coordination by Federal and State agencies to develop solutions for present and future water resource problems as well as resolve potential interagency and State-Federal conflicts.

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QUESTION 3. What considerations are being given by the WRC to the relationship between energy policies and agricultural water use, agricultural production, and agricultural prices?

REPLY The WRC is currently involved in the assessment of water requirements for alternative, non-nuclear energy technologies in four WRC regions (Upper Colorado Pacific-Northwest Ohio and Missouri River Basins). Five additional regional studies will be initiated yet this fiscal year California Texas-Gulf, Great Basin, Lower Colorado, and Rio Grande River Basins) Such studies are being undertaken for DOE under the provisions of Section 13, of the Federal Non-nuclear Energy Research and Development Act of 1974.

Results of these assessments will be incorporated into the on-going assessment activites of the WRC in projecting availability and costs of water for future agricultural use Where water for agricultural use becomes a limiting factor for agricultural production, such productivity charges will be incorporated into future land use and pricing projections The scope of these assessments includes (1) quantification of the potential competition between agriculture and energy for available water supplies, (2) the economic impact of transfers of water use from agriculture to energy, and (3) identification of legal impediments and possible means for resolution to transfers of water use.

QUESTION 4. Briefly and in general terms, please outline the factors which would be reviewed in the Independent Technical Review of water project proposals.

REPLY Certain planning aspects identified in Executive Order 12113 will be reviewed by the Water Resources Council staff in order to monitor agency implementation of the Principles and Standards and the new planning manual The scope of the WRC project review has been carefully structured to minimize duplication of agency internal review to the extent practicable and still meet the overall goals and objectives of the Executive Order The following paragraphs summarize the specific planning aspects that will be reviewed by the WRC staff for preauthorization and post-authorization planning reports.

PREAUTHORIZATION REPORTS

1. Alternative Plans. Preauthorization reports will be reviewed to determine whether a reasonable array of alternative plans which address the planning objectives were examined in appropriate detail prior to selecting the proposed plan. Since there are uncertainties associated with projection of future conditions as related to alternative plans, the consideration of alternative futures has become increasingly important to decisionmakers. Therefore, the WRC staff will review the reasonableness of the future alternative conditions and the most probable alternative future for "with" and "without" project conditions.

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2. Beneficial Effects on National Economic Development. The methodology and procedures used in the evaluation of each project purpose will be reviewed. The WRC staff will examine the estimates of direct user benefits for each individual project component or purpose, such as municipal and industrial water supply, flood control, irrigation, etc. The review will also examine the estimated benefical effects from utilization of unemployed or underemployed resources.

3. Project Monetary Cost Estimates. The estimate of monetary project costs will be used to determine the reasonableness of the overall cost estimate for comparison with project benefits. Such factors as the cost per kilowatt of installed capacity, cost per mile of transmission line, and cost per acre-foot of storage will be reviewed. The reasonableness of the estimate of interest during construction will also be reviewed. The WRC staff will review the plan for operating and maintaining the proposed project and the procedures used to estimate annual operation and maintenance cost.

4. Environmental Considerations. Agency reports and accompanying environmental impact statements will be monitored to determine whether agencies have effectively complied with relevant environmental statutes, regulations, Executive Orders and policy guidelines.

5. Public Involvement and Support. The WRC staff will review the extent of involvement of Federal, State and local officials in the plan formulation process and the indications of public support. The purpose of such review is only to ensure that there has been adequate opportunity for participation and comment by interested parties and that the agencies have considered the expressed desires of the public regarding the utilization of the water and related land resources of the study area.

6. Relationship to Approved Regional Water Resource Management Plans. Selected Federal agency water and related land resources programs and projects shall be consistent with approved regional water resources management plans or satisfactory reasons for inconsistency shall be given by the responsible Federal agency (WRC Policy Statement No 4 43 FR 28884 dated July 3 1978). The WRC staff will review consistency of Federal agency programs and projects with approved regional water resources management plans.

7. Water Conservation Measures. Water conservation measures considered in agency reports will be reviewed for consistency with the conservation options described in the revised Principles and Standards. Such water conservation measures are primarily concerned with increasing efficiency of use. Consideration of such water conservation measures, however, in no way precludes the agency from investigating

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proposed water storage facilities. Promoting more efficient use of water should be viewed as an additional "tool" for the solution of water resources problems. However, construction of water storage facilities will continue to be an important solution to many water resources problems.

8. Identification of New Policy Directions. Unusual or unique circumstances may justify an agency recommending an exception to existing Federal policy or a new policy direction. Agency recommendations for modification of Federal policy will be highlighted in the WRC statement of findings for consideration by appropriate national policy authorities. Such consideration will ensure that agency planners and decisionmakers are not bound by inappropriate policies.

9. Distribution of Beneficiaries. The WRC statement of findings will note the distribution of the benefits attributed to proposed agency plans for consideration by decisionmakers.

10. Safety. It is the responsibility of the administering agency to ensure that water projects have no significant safety problems involving design, construction or operation. The WRC staff will not certify whether a proposed project will be safe, but will monitor the extent of consideration given by the agencies to safety aspects of the project.

11. Cost Sharing. The WRC statement of findings will note the extent to which the cost sharing included in the report conforms to existing policy and legislation.

12. International or Intergovernmental Problems. Water resources development preauthorization reports and supporting documentation should specifically identify significant international or intergovernmental problems associated with the proposal. The international or intergovernmental implication of constructing the project will be summarized in the WRC review findings.

13. Mitigation, Compensation, and Enhancement. The WRC staff will determine whether agencies have reasonably considered measures to protect and enhance fish, wildlife, historical and other resources.

POST-AUTHORIZATION REPORTS

The foregoing planning aspects will also be reviewed by the WRC staff during the post-authorization stage of a project prior to the time the agency requests funding for initiation of project contruction. However, the intensity of the review undertaken will primarily depend on the lapsed time since project authorization, the extent of changed conditions in the study areas subsequent to authorization, new policies

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implemented since authorization and whether the WRC reviewed the report during the preauthorization planning stage.

Some agency project reports reviewed by WRC will have been planned prior to implementation of the Principles and Standards and the planning manual. In those cases, the review would not itself replan, nor require the agency to replan or recalculate according to new rules Failure of a project to meet all contemporary standards would not preclude its implementation.

QUESTION 5. Detail any difference between the proposed Independent Technical Review and the agency and inter-agency technical reviews already being conducted. Specifically, consider reviews done by the U.S. Corps of Engineers the U.S. Bureau of Reclamation, and the U.S. Soil Conservation Service.

REPLY The Committee and the staff have each indicated concern over possible duplication of the WRC review with existing agency reviews, or the existing OMB review. The potential exists for some duplication of the WRC staff review with water project reviews elsewhere. However, the factor which makes the WRC review unique is that it is the only review of a proposed water resources project done by an entity which has no vested interes in construction of the project. It is an entity which can approach the proposed project with a totally unbiased viewpoint. The WRC review will publish a detailed review document of the project.

The President has established by Executive Order within the Water Resources Council an independent water projects review to assist him in formulating his recommendation to the Congress for authorization and appropriation of economically ustified and environmentally sound water resource develoment projects In establishing this review function the President is not attempting to affect in any way the decisionmaking powers of the Congress on Federal water investment. Rather he is attempting to develop a management tool to assist him in formulating water resources development proposals to send to Congress on a continuing basis.

Furthermore, the WRC review will supplant the existing OMB review and the Council and OMB have established the following division of responsibilities:

1. WRC will produce a statement of findings for each water project reviewed. The statement will include a factual analysis of compliance or noncompliance with the Principles and Standards, planning manual, environmental statutes and other applicable laws and regulations The statement will provide factual information on the technical adequacy of the agency report in addressing important planning aspects

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such as the benefit costs ratio, cost allocation, cost sharing arrangements, consideration of alternatives, and public participation.

2. Reports submitted to OMB will not be accepted unless a statement of WRC findings is included.

3. WRC review will normally be limited to 60 days (absolute maximum of 90 days) and will replace the OMB technical review that has previously had an unknown duration.

4. The WRC findings statement will be made available to the Congress and to the public for information on the project.

5. The appropriate agency head will decide whether to amend or modify the project report in light of WRC findings before submittal to OMB. The WRC review process should not be construed as veto authority on an agency project report.

6. OMB will review (a) authorization reports for consistency with Presidential policy, and (b) construction funding requests with regard to their consistency with Presidential policy and budget priorities. OMB will not duplicate the WRC review of planning aspects, but will accept the WRC findings.

QUESTION 6. The Water Resources Council retained a private law firm in 1978, to ascertain what authority, if any, the President has in directing the WRC to initiate the Independent Review Function. Please give the following information:

(a) Name of the lawyer/lawyers retained by the WRC;

(B) Total fees paid to each lawyer/lawyers and from what source;

(c) Amount of research in man-hours spent on this issue; and

(d) Aside from the work done for WRC, in what type of law practice were these lawyers engaged at the time they were retained.

REPLY The period, March-October, 1978, was a very difficult time for the Water Resources Council because of the uncertainty of FY 1979 authorizations. During this period, the Council lost staff members and experienced difficulty recruiting because of the uncertainty surrounding the Council's future existence. During the fall of 1978, the

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Council had no staff attorney. Consequently, we contracted with the firm of Van Ness, Feldman, and Sutcliffe to provide us with a memorandum of law concerning the authority of the Water Resources Council to conduct a review of proposed Federal water projects. The attached memorandum of law was prepared by Mr. Ben Yamagata of the firm. Mr. Yamagata was formerly with the staff of the Senate Committee on Energy and Natural Resources, where he assisted in drafting a set of proposed amendments to the Water Resources Planning Act which were introduced in 1975 by Senator Church. Consequently, Mr. Yamagata is well acquainted with the authorities and responsibilities of the WRC. In addition, William J. Van Ness, Jr., a senior partner in the firm, was the former General Counsel of the then Senate Interior Committee and was involved in the development of PL. 89-80. The fee paid to Mr. Yamagata for this memorandum and required legal research was $1575 billed for 17.5 hours. The firm of Van Ness, Feldman and Sutcliff are engaged in a general law practice.

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NERBC New England River Basins Commission

53 State Street, First Floor
Boston, Massachusetts 02109
Tel. 617 223-6244

OFFICE OF THE VICE CHAIRMAN

June 13, 1979

The Honorable Ed Jones, Chairman
Subcommittee on Conservation and Credit
House Committee on Agriculture
1301 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

It is my understanding that the Subcommittee is holding hearings regarding legislation extending authorizations contained in the Water Resources Planning Act (P.L. 89-80).

The purpose of this letter is to request your consideration of the enclosed statement of state members of the New England River Basins Commission. It expresses their strong support of continued authorizations requested by the Administration for the U.S. Water Resources Council, the Title II River Basins Commissions and expanded authorizations for Title III Grants to the states for Water Management and Technical Assistance for Water Conservation.

The joint statement also asks your consideration of an additional authorization for a special study on water conservation for New England to begin in FY 1980.

The attached material has been designed to be of assistance to you and the members of the subcommittee in considering proposed amendments to the Water Resources Planning Act. We will be pleased to respond to any questions you may have in that regard.

We request that the attached statement be included in the official record of the hearings.

Sincerely,

Keith Labey (State Coordinator)

for Arthur J. Markos
Vice Chairman

ajm:pmh

cc: NERBC State Members and Alternates

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STATEMENT OF STATE MEMBERS OF THE NEW ENGLAND RIVER BASINS COMMISSION TO THE SUBCOMMITTEE ON CONSERVATION AND CREDIT OF THE HOUSE COMMITTEE ON AGRICULTURE ON PROPOSED AMENDMENTS TO THE WATER RESOURCES PLANNING ACT P.L. 89-80

JUNE 1979

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State members of the New England River Basins Commission (NERBC) representing Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont wish the record to show their collective support for the U.S. Water Resources Council, the New England River Basins Commission, and the Title III Grant Program to the States. We request that the Congress extend authorization to continue these programs through FY 1980 as follows:

Authorizations for FY 1980

(in thousands of dollars)

	H.R. 2610 (as introduced)	Changes requested by this statement
Section 401 (a) (Title II)	$ 3,119	No change
Section 401 (b) (Title I)	4,330	No change
Section 401 (c) (Level B and Special Studies)	2,815	+297 to begin a New England Water Conservation Study
Section 301 (Title III)	50,000	No change

TITLE I: THE U.S. WATER RESOURCES COUNCIL (SECTION 401 (b))

Congress established the Water Resources Council under Title I of the Water Resources Planning Act of 1965 in recognition of the need for coordination among the bewildering and often conflicting array of grants, loans, and direct federal actions which comprise the federal and federally-supported programs affecting the nation's water and related land resources. The Council's potential for leadership in policy-making and planning has not yet been fully realized, partially because of the failure of the member agencies to use it to resolve interagency difficulties and partially because of the ambiguous leadership position of the Council Chairman. Even if the Administration's Natural Resources Reorganization is adopted, water resources planning and management functions will remain divided among at least four departments. It has been the experience of the states that a peer agency cannot effectively coordinate others at the same level. The need for an independent interagency mechanism to resolve conflicts and serve as a catalyst for comprehensive water resources planning and management is as great as ever.

The 1977 water policy recommendations developed by the New England states and New York recognized the difficulties the Water Resources Council has had in carrying out its functions. Nevertheless, they strongly endorsed the intent of Congress in creating such an agency to serve as the integrator of water programs in the executive branch. This past year provided an excellent example of the leadership role the Council can play. Under WRC direction, most member agencies agreed to a "consistency" policy. Henceforth, certain enumerated federal water programs and projects are required to be consistent, to the maximum extent practicable, with regional plans adopted by river basin commissions.

We urge your support for continuing and strengthening the Water Resources Council so that it may accomplish the vital work intended by Congress.

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TITLE II: RIVER BASINS COMMISSIONS (SECTION 401 (a))

The New England states and New York have given considerable thought to the desired directions of the programs of the New England River Basins Commission (NERBC) In 1977, state members agreed to a program strategy which continued to emphasize completion of the commission's central statutory mission, the development of water and related land resource management plans for each major river basin, while maintaining the ability to respond to pressing regional problems as they are identified. Completion of Level B Studies for Long Island Sound, the Connecticut River Basin, Southeastern New England, and the Lake Champlain Basin (in 1979) has provided a sound basis for decision-making in some of the region's most complex and highly-populated areas. For areas not already covered by adopted Level B management plans, Basin Overviews are being prepared to identify the major problems, issues, and opportunities associated with the management of water and related land resources in each basin. With completion of the Basin Overviews in FY 1981, NERBC will have in hand a consistent base for further plan development and implementation of related activities in the region.

Special studies completed and ongoing, are providing guidance for the reduction of flood damage, the management of offshore oil and gas-related activities, hydropower expansion, dredging management and dredged materials disposal, port and harbor development, water conservation, natural resources data management, and power plant siting.

Important water resource accomplishments have been realized through NERBC's planning and coordination programs. Based on studies of flood damage reduction and flood plain management, the National Weather Service has moved to institute a program for helping public safety agencies implement local flood disaster preparedness plans The states of Massachusetts, Connecticut, and Rhode Island have all upgraded building codes to include flood-protection measures. Assisted by NERBC efforts, New York, Connecticut, the Corps of Engineers the National Marine Fisheries Service, the U.S Fish and Wildlife Service, and the EPA have developed an interim plan for the disposal of dredged materials. Using NERBC-developed information, the New England states have helped revise and strengthen the U.S. Geological Survey Operating Orders for OCS exploration. Finally, the states of New York and Vermont have agreed on programs for improving water quality in Lake Champlain and are developing cooperative and consistent policies for dealing with toxic materials pollution, eutrophication, and nuisance aquatic plants as a result of the Lake Champlain Level B study.

The challenges to water resource managers in New England are numerous and complex, but, through a series of carefully planned and orchestrated study and coordination efforts a comprehensive joint plan is evolving for the management of the region's waters through the program activities of the New England River Basins Commission. Continued authorization for the Title II program is essential.

TITLE III: FINANCIAL ASSISTANCE TO THE STATES FOR WATER MANAGEMENT AND TECHNICAL ASSISTANCE FOR WATER CONSERVATION (SECTION 301)

In their 1977 water policy statement, the New England and New York governors recommended a series of actions which would recognize the primary role of the states in water planning and management and strengthen state capabilities into a more comprehensive framework. The increased level ($25 Million) of Title III funding which has been proposed by the Administration would raise the amount of annual planning funds available to the seven states from $414,000 to $2.5 Million. This increase would permit and encourage the states to plan and manage water programs in a more comprehensive manner as proposed by the governors and the President in his National Water Policy.

The New England and New York governors also supported a strong water conservation policy as the fundamental backbone of all state and federal water programs. The New England region is especially sensitive to its water supplies as vital economic

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as well as environmental resources and views water conservation as a critical element in sound management of these resources. The $25 Million Title III grant program for technical assistance for water conservation which has been proposed by the Administration -- a total of approximately $2.8 Million per year for the New England states and New York -- would serve as important catalysts to achieving the water-conservation goals of this region.

Although these expanded Title III programs are in the best interest of the states, there are some shared concerns as to how implementation should proceed in order to insure the most effective application of the increased funding. These concerns have to do primarily with program continuity. Some state legislatures meet and appropriate funds every two years, thus requiring knowledge of program requirements several years in advance. Development and maintenance of effective state staff capabilities are also dependent upon program continuity.

In consideration of the above, the New England states believe that H.R. 2610 should be revised to reflect a minimum assured annual funding for each state based on a total annual Title III Program of $50 million - with $100,000 allocated annually to each state for water management programs and $100,000 allocated annually to each state for water conservation technical assistance, and with the remaining amounts allocated on the basis of formulas reflecting state needs. We wish to emphasize that for any annual program of less than the $50 million total, the $100,000 minimums would have to be adjusted downward to insure equitable consideration of individual state needs.

Additionally, the New England States support a straight 80/20 federal - state matching formula at all funding levels

With regard to matching formulas in general, we believe that Congress should remain sensitive to the chaos that is created by having federally-supported programs with different matching-fund requirements Those programs tend to be used most which offer the highest federal match, whether or not they are most suitable. Congress could provide a great service to the quality of water resources management and other federally-assisted programs by considering more uniform matching formulas for all federal planning and management programs, including Title III.

LEVEL B AND SPECIAL STUDIES (SECTION 401 (c))

The purpose of this portion of the statement is to request that the Administration's FY 1980 request for Section 401 (c) appropriations be increased by $297,000 in order to start a special study on water conservation, The New England Assessment of Water Conservation Potential and Strategies for Implementation.

This new study will carry out a comprehensive evaluation of available water conservation measures with the aim of identifying approaches which are particularly well-suited to New England. A literature survey and extensive discussions with individuals informed about water management issues will provide data needed to assess the potential role likely effectiveness, and relative costs and benefits of alternative strategies for the region. Information needed by decision makers and legal/institutional changes necessary to insure effective implementation of conservation programs will also be identified in this effort.

Those water conservation measures showing the greatest promise for application in New England will undergo detailed field testing in both urban and rural settings.

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This experience, together with the earlier assessment, will provide the basis for developing comprehensive water conservation programs tailored to the particular needs and circumstances of each of the New England states. These state conservation plans will recommend both short- and long-term strategies and will be accompanied by a series of technical documents for use by the states in providing technical assistance to local officials and in informing the general public.

As originally designed and approved by the states, the study would be completed over a three-year period at an estimated cost of $792,000. The six New England states and New York have expressed their desire to participate in the study and have made commitments to seek contributions for the required 25 percent of study costs, totaling $198,000.

However, with Congress currently considering a request in the President's FY 80 budget for $25 million in direct funding to states for water conservation technical assistance, it is recognized that certain modifications to the study budget originally proposed may be in order. The following table has been prepared to show proposed funding of the study under two alternative futures:

NEW ENGLAND WATER CONSERVATION STUDY FUNDING ALTERNATIVES

		Assuming less than $25 Million Annual Title III Program for Water Conservation Technical Assistance	Assuming $25 Million Annual Title III Program for Water Conservation Technical Assistance	
		Special Study Funding	Special Study Funding	From Federal and Non-Federal Title III Program Funding
FY 1980	Federal	297	147	200
	Non-Federal	99	49	
Balance to Complete	Federal	297	0	396
	Non-Federal	99	0	
TOTAL		792	196	596

Should the full $25 million in Title III funds become available in FY 1980, the proposed study would give New England states a head start in developing their technical assistance programs and would eliminate unnecessary duplication of effort between state programs, enabling them to apply their funds more directly toward realizing more efficient use of limited local water resources. Under these conditions, a smaller amount ($147,000) could be appropriated to NERBC and the balance of the study could be performed by the states using Title III program funds. However, because authorization and appropriation of the full $25 million water conservation program appears unlikely at this time, authorization of federal special study funding of $297,000 is requested.

The level of authorization requested by the administration already includes funding to complete two ongoing special studies for New England in FY '80:

* The New England Hydropower Expansion Study - $225,000
* The New England Port and Harbor Study - $142,000

We strongly support the need to continue and complete these important regional efforts.

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WESTERN STATES WATER COUNCIL
220 South 2nd East / Suite 200 / Salt Lake City, Utah 84111 / Phone (801) 521-2800

June 13, 1979

JOHN HOGAN
213 11th St. S.E.
Washington, D.C. 20003

Dear Mr. Hogan:

The Western States Water Council has considered legislation identified as H.R. 2610 that would provide funds to the states to assist them in water management and conservation endeavors.

The western states are concerned that the legislation, as drafted, may give federal administrators an opportunity to impose unreasonable requirements through rules and regulations that would tend to usurp states' rights and prerogatives in the water resource area. With this in mind, the Council on April 20, adopted the enclosed position which identifies changes in the legislation as marked up on April 5, 1979 by the House Subcommittee on Water and Power.

The Council also had an opportunity in April of this year to examine proposed cost sharing legislation. The draft available to us at that time was identical to the legislation proposed by the Administration on May 16. The Western States Water Council unanimously resolved its opposition to the legislation as proposed. A copy of the Council's position is enclosed for your consideration.

The pink portion of the enclosed map represents those states with whom the Council is in touch, and we are aware that in each state designated, oppostion has been expressed to the cost sharing legislation as proposed.

The Western States Water Council would appreciate your keeping the concerns of the western states in mind as the above named legislation is assigned to your Committee.

Very truly yours,

Jack A. Barnett

JACK A. BARNETT
Executive Director

JAB/vj

Enclosures

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POSITION
of the
WESTERN STATES WATER COUNCIL
on
PROPOSED COST SHARING LEGISLATION
April 20, 1979

WHEREAS, The Carter Administration has proposed cost sharing legislation to the United States Congress that will have widespread and potentially adverse impacts on the Western States; and

WHEREAS, the states and other non-federal entities have long shared in the cost of past water development projects and will continue to do so in the future; and

WHEREAS, the current proposal expresses an intention that the states have increased involvement in all phases of water projects, yet, the proposal contains practically no provision for State participation in the planning, construction, and operation of water projects; and

WHEREAS, the Western States Water Council, while not opposed to the principle of equitable cost sharing, can find little support for the cost sharing legislation being advanced.

NOW, THEREFORE, it is the position of the Western States Water Council to:

(1) Seek removal of objectionable features and add needed features in the draft legislation.

(2) Communicate to Congressional delegations of the member states and the Congressional committees of appropriate jurisdiction the reasons for opposition to the current bill.

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SUGGESTED REVISIONS

1. State Responsibilities

The proposal expresses an intention that the States have increased involvement in the development and management of water and land resources. However, the proposal contains practically no provisions for increasing state participation in the planning, construction, and operation of water projects. The bill should contain a guarantee that States will participate in all phases and that they will be given authority and responsibility commensurate with their sharing of costs. State laws must be given full recognition in project planning and management.

2. Present Cost Sharing

States and local governments have been contributing significantly to water resource development over the years. These contributions do not appear to be adequately recognized in the current proposal. In some cases on federal projects the real contributions are greater from the non-federal entities and, in fact, cost sharing has long been a requirement in flood control and recreational projects.

3. Double Banking Problems

Because municipal, industrial and hydroelectric projects have historically paid back 100% of their costs plus interest to the federal treasury, the cost-sharing proposal will have little, if any, impact on these users. The probable effect of the proposal on such users will not be to require two bankers instead of one, i.e. 90% payable to the federal government, 10% payable to the state. Thus creating additional burdensome requirements for the states and these water users.

4. Economics to Drive Decisions

The legislation proposes to place additional burdens on state and local government as well as project sponsors. Upon analysis, it appears that less economically feasible projects are most often those projects that will enhance the environment through instream flow provisions, recreation provisions, or environmentally acceptable agricultural development. The proposed cost sharing legislation would drive the decision making process to the projects that are most economically feasible at the disadvantage of the projects that might enhance stream values, fish and wildlife and general aesthetics.

5. Cost Sharing Determination

Under this proposal, the federal agency responsible for a project unilaterally determines the state share of costs, vendibles, and revenues. Procedures should be established to make this a joint effort between the federal and non-federal entities.

6. Agriculture

Water development projects designed to enhance irrigated agriculture as a means of achieving social and economic goals are important to western states.

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These projects not only provide food for the nation but bring economic growth, balanced state economies, stabilization of rural communities, enhancement of open space and wildlife values, and many other benefits to the West. The achievement of these goals should continue to be of a valid aim of federal water resources policy. Any proposed changes in cost-sharing must therefore be evaluated in light of its impact upon these important goals and the contribution which irrigated agriculture makes to the West.

In particular, it must be noted that worthy agricultural water projects would be severely impacted by the proposed cost sharing formula placing agriculture at a disadvantage with other more economically competitive water uses. Thus, the cost sharing proposal would alter important, long standing programs that are designed to promote agricultural development and, in turn, the growth and economic stability of the West.

Specifically, the cost sharing proposal would substantially detract from several of the basic programs which have been established to assist irrigators:

(a) The 1902 Reclamation Act waived all interest payments incurred by irrigation districts borrowing money from the federal treasury. Under the cost sharing proposal, the State (rather than the federal government) would be losing interest on the 10% monies advanced on the front end. This is a loss of revenues states historically have not faced, and over a fifty year repayment period will exceed (by a factor of many times) the actual 10% front end contribution.

(b) Irrigators in the West have been able to repay federal water projects partly through personal contributions (based on what they could afford to pay) and partly through allocation of "river basin funds" to which states or irrigation projects are entitled.

Such "river basin funds," generated from the sale of hydroelectric power from specific federal projects, were earmarked exclusively to help irrigators meet repayment requirements of individual irrigation projects. This mechanism has been heavily relied upon by the states and irrigators to keep agriculture in a competitive position. Under the Carter cost sharing proposal, the river basin funds are indirectly denied the states and their irrigators. Ostensibly, the states advance 10% of the project cost (vendibles) and receive 10% of the project revenues. But the proposal does not recognize the river basin funds as "revenue." Hence the states are returned only 10% of what the irrigator directly pays; not 10% of the total contribution from the irrigator and river basin revenues.

(c) For example, assume an agricultural project costing $100,000,000. The state is required to advance 10% or $10,000,000 on the front end with the federal government putting up the balance of $90,000,000. The state, under the proposal, should receive 10% of the project's revenues. The irrigators, in this instance, are able to repay only $20,000,000(20%) of the total $100,000,000 cost -- said $20,000,000 based on what the irrigators are capable of paying. Therefore,

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the remaining $80,000,000 is repaid to the federal treasury by river basin funds. Under the Carter proposal, the state would only be repaid $2,000,000 of the $10,000,000 it advanced since the irrigators repaid only 20% of the total project cost. The remaining 80% river basin contribution is not considered as "revenue;" therefore, the state cannot claim the additional $8,000,000 it advanced. It is indeed ironic that the federal government, after receiving $20,000,000 from the irrigator and $80,000,000 from the river basin funds in return for its $90,000,000 loan, returns only $2,000,000 of the state's $10,000,000 investment. Without question, state legislatures will be reluctant to cost share irrigation projects when most of the money advanced by the state will not be returned and the states will not be given credit for contributions from river basin funds. Moreover, the states will lose interest on the 10% advance throughout the life of the project.

(d) Therefore, the Council cannot support a cost sharing proposal that deviates from the benefits extended to agriculture in the 1902 Reclamation Act and that refuses to consider as "revenue" contributions made to the federal treasury from the river basin funds.

7. Flood Control

The proposals under this section are very confusing. Several interpretations could be made as to the percent of cost sharing that will be required in the future. In any event, and regardless of the various interpretations, the Council favors retaining the present cost sharing that is required with federal projects for flood control purposes. It is uncertain whether flood control cost share (20% through non-federal entities and 5% through the state) is in addition to existing contributions or is a limit to overall cost sharing responsibilities by non-federal entities.

The Council believes that the existing contributions by non-federal entities are adequate. If additional requirements are needed, the Council believes that there should be a limitation on non-federal cost sharing at a maximum of 20%.

8. Recreation

The Council opposes any additional cost sharing in recreational features of water projects. The Council notes that often 50% of the recreational costs are now being advanced by the states, and can find no reason for the states to assume an additional 5% or 10% burden.

9. Navigation

The Council finds that navigational benefits, whether they be river channel improvements or deep water ports, are so widespread that it would be impractical for a single state to manage the cost sharing contributions that might equitably be requested from many states and a multitude of beneficiaries. Therefore, the Council believes that navigation should be removed from cost sharing provisions.

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10. Dam Safety

The Council feels that the financing of dam safety improvements on federal projects as authorized by the Congress last year should not be reexamined at this time and, further, cost sharing legislation is an inappropriate place to reconsider that congressional decision. Presumably, the cost sharing that is being proposed by the Carter Administration, is a state/federal cost sharing coordinated effort and the cost sharing that would be required by reversal of last year's congressional actions with respect to the funding of improvements for federally owned dams, would be a direct arrangement between the federal government and the contracting users of the federal project.

11. Environmental Enhancement Projects

It is unclear as to whether or not the legislation would apply to projects that might be designed and authorized strictly for the purpose of enhancing the environment. These projects might include fish and wildlife refuge improvements, instream flow provisions, and water quality control projects. Because it is unclear as to whether the cost sharing legislation would apply to water quality projects, it is difficult to speculate upon the impact that this might have, but it is recognized that there is a significant amount of money being spent nationwide by the federal government at the present time for water quality and environmental purposes. An example might be the question as to whether or not projects that are designed to improve the salinity of the Colorado River to meet treaty obligations with Mexico would be subject to cost sharing requirements. The legislation should be clarified where projects are excluded.

12. Congressional Intent

The draft legislation, at best, is vague in setting out implementation procedures and clarifying congressional intent. Specifics are left to be developed and guidelines promulgated by the Water Resources Council and rules and regulations adopted by individual federal agencies. Past experiences have shown us that this procedure can lead to excessive regulations and requirements that go beyond the original intent of the legislation.

13. Funding Limitations

The provision for a cap of ¼ of 1% of a state's general revenue is not equitable. It would, in effect, put a larger burden on states having larger budgets and it would be totally unfair in the event of multi-state projects where only some states would come under this cap.

14. Federal Commitments

The draft legislation requires the states to furnish binding commitments to put up funds in proportion to future federal appropriations, the amounts and

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timing of which are uncertain. The amounts and timing must be firmly established by equally binding federal commitments in order for non-federal investments to be protected and fully secured.

15. Exempting Emergencies

The proposed authority to exempt "emergencies" from cost sharing rules is unclear. It allows a departure from the rules but does not clearly define conditions required for this exemption.

16. Multi-State Projects

The proposals for cost sharing in multi-state projects and the division of costs among states are totally unworkable as they now appear in the draft legislation.

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POSITION
of the
WESTERN STATES WATER COUNCIL
on
LEGISLATION AMENDING
the
WATER RESOURCES PLANNING ACT
April 20, 1979

To protect the viability and independence of state water planning and to preclude the imposition of federal criteria, procedures and regulations on those programs and dilution of state authority by including Indian reservations within the State Grant Program, the Council urges the following amendments to Section 2 of HR 2610 as marked up on April 5, 1979 by the House Subcommittee on Water and Power:

Page 4. Line 10. Add the following after the word goals - to the extent deemed appropriate by each State.

Page 4. Line 15. After the word programs, delete period and add - without the imposition of federal planning criteria, procedures and regulations not acceptable to the State.

Page 5. Line 4. Delete sentence beginning with These guidelines and add a new sentence to read as follows: No requirement that is consistent with Section 301(a) shall be imposed upon a State unless such requirement has been promulgated by rule and is within the purposes of this Act.

Page 6. Delete Section 302(f). (Line 21 on Page 6 to Line 19 on Page 8)

Page 9. Line 7. Between the word policy and the word to, add - and to the extent deemed appropriate by the State,

Page 9. Line 19. Between the word public and the word in, add - as deemed appropriate by the State,

Page 10. Line 2. After the word provide, delete dash (-) and add - in a manner deemed appropriate by the State

Page 11. Line 25. After the word requirements, delete semi colon (;), and add - adopted under the provisions of Section 301(c);

The Council recognizes the need for federal financial assistance in water management planning and water conservation technical assistance and supports the level of appropriations recommended by the Administration, provided the legislation is amended to accomplish the purposes as proposed above. In addition, the Council supports augmented financial assistance to the Indian tribes for water resources planning through separate legislation or a new title to P.L. 89-80.

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